DECISIONS

OF THE

SPEAKERS OF THE LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

FROM 1877 TO 1915

REPORTED BY

THORNTON FELL, K.C., Clerk, Legislative Assembly

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AUTHORITY OF THE LEGISLATIVE ASSEMBLY.

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1915.

SPEAKERS.

Hon. James Trimble	1872 to 1877
Hon. F. W. Williams	1878 to 1882
Hon. J. A. Mara	1883 to 1886
Hon. C. E. Pooley	1887 to 1889
Hon. D. W. Higgins	1890 to 1898
Hon. J. P. Booth	1898
Hon. Thos. Forster	1899 to 1900
Hon. J. P. Booth	1900 to 1901
Hon. C. E. Pooley	1902 to 1906
Hon. D. M. Eberts*	1907 to 1915

* Still in office.

TABLE

Showing the Duration of the Sessions of the Legislative Assembly in each Year since Confederation.

The figures in the first column show the number of days over which the Session extended.

The figures in the second column show the number of days upon which the House sat.

1872,	began	15	February	and prorogued	11	April	55	44	days.
1873,	„	17	December	„	21	February	66	38	„
1874,	„	18	December	„	2	March	74	42	„
1875,	„	1	March	„	22	April	52	32	„
1876,	„	10	January	„	1	February	65	37	„
	„	6	April	„	19	May			
1877,	„	21	February	„	18	April	57	40	„
1878,	„	7	February	„	10	April	61	43	„
	„	29	July	„	2	September	35	20	„
1879,	„	29	January	„	29	April	90	52	„
1880,	„	5	April	„	8	May	33	27	„
1881,	„	24	January	„	25	March	60	38	„
1882,	„	23	February	„	21	April	57	31	„
1883,	„	25	January	„	12	May	107	57	„
1884,	„	3	December	„	18	February	77	38	„
1885,	„	12	January	„	9	March	56	34	„
1886,	„	25	January	„	5	April	70	44	„
1887,	„	24	January	„	7	April	74	43	„
1888,	„	27	January	„	28	April	92	55	„
1889,	„	31	January	„	6	April	66	40	„
1890,	„	23	January	„	26	April	94	54	„
1891,	„	15	January	„	20	April	96	61	„
1892,	„	28	January	„	23	April	86	52	„
1893,	„	26	January	„	12	April	77	48	„
1894,	„	18	January	„	11	April	84	52	„
1895,	„	12	November, '94	„	21	February, '95	102	58	„
1896,	„	23	January	„	17	April	84	55	„
1897,	„	8	February	„	8	May	90	62	„
1898,	„	10	February	„	20	May	100	65	„
1899,	„	5	January	„	27	February	53	38	„
1900,	„	4	January	„	1	March	56	36	„
1900,	„	19	July	„	31	August	43	31	„
1901,	„	21	February	„	11	May	80	53	„
1902,	„	20	February	„	21	June	122	106	„
1903,	„	2	April	„	4	June	63	28	„
1903-4,	„	26	November, '03	„	10	February, '04	76	37	„
1905,	„	9	February	„	8	April	59	43	„
1906,	„	11	January	„	12	March	61	44	„
1907,	„	7	March	„	25	April	50	34	„
1908,	„	16	January	„	7	March	42	39	„
1909,	„	21	January	„	12	March	51	37	„
1910,	„	20	January	„	10	March	50	36	„
1911,	„	12	January	„	1	March	49	35	„
1912,	„	11	January	„	27	February	48	35	„
1913,	„	16	January	„	1	March	45	33	„
1914,	„	15	January	„	4	March	48	35	„
1915,	„	21	January	„	6	March	45	32	„

SPEAKERS' DECISIONS.

AMENDMENTS.

Amendments must be relevant and not a new proposition on a different subject.

Order of the Day called for Committee of Supply. 13th May, 1902. Journals, p. 110.

Question proposed—"That Mr. Speaker do now leave the Chair?"

Mr. Oliver and Mr. Houston rose to address the House.

Mr. Speaker POOLEY called upon Mr. Oliver to proceed, and requested Mr. Houston to take his seat.

Mr. McInnes moved, seconded by Mr. Gilmour,—

That Mr. Houston do now speak.

Mr. Curtis moved in amendment, seconded by Mr. Neill,—

That the following words be added to the question, viz.: "because the House has no confidence in the railway policy of the Government."

Mr. Speaker POOLEY: I rule the amendment out of order, on the ground of irrelevancy. There is a total absence of congruity between the proposed amendment and the main motion, so that the amendment is a new proposition upon a different subject. The amendment ought to be essentially analogous to the main question, and be so framed that, if agreed to, the question, as amended, would be intelligible and consistent with itself. (*See May*, 10th edition.)

Mr. Neill moved, seconded by Mr. Gifford,—

To add to the motion the words: "but such permission shall not prejudice the rights of the minority in this House to speak to the motion on going into Committee of Supply."

Mr. Speaker POOLEY: I rule the amendment out of order, for the reasons stated in my decision on the last amendment moved by Mr. Curtis.

Amendments on second reading. After the House has decided "That the words proposed to be struck out shall stand part of the question," no amendment can be moved to add words to the question.

The House resumed the adjourned debate on the second reading of Bill (No. 85A) intituled "An Act to aid the Construction of a Railway from Victoria to Yellowhead Pass," and the amendment thereto moved by Mr. McBride, seconded by Mr. Gifford, as follows:— 3rd June, 1902. Journals, p. 145.

To strike out all the words after "That," and to insert in lieu thereof: "it is not advisable to pass any Bill providing for aid, leaving it to the Government to enter into the agreements with the railway companies without submission to the House for ratification; and that the Bill should be one confirming agreements for immediate construction, and thereby

prove to the country that the railways are to be immediately constructed—not the passage of a measure that means no railway-construction in the immediate future."

Question proposed—"Shall the words proposed to be struck out stand part of the question?" and *Resolved* in the affirmative.

Question again proposed—"That the Bill be read a second time now."

Mr. Curtis moved in amendment, seconded by Mr. Hawthornthwaite,—

To add thereto the following words: "upon the understanding that the Bill shall at a subsequent stage be amended so that the proposed aid shall be given as a loan, free from interest for a stated term of years, and thereafter to bear interest until repaid."

Mr. Speaker POOLEY: The amendment is out of order. After the House has decided "That the words proposed to be struck out shall stand part of the question," no amendment can be moved by way of mere addition to the question. (*See May*, 10th edition, page 446. Members' Manual (Ontario), page 126.)

Amendment to amendment. Proper stage to move same, where words proposed to be struck out and other words inserted.

17th January, 1900. Journals, p. 13.

The adjourned debate on the amendment to the Address in reply to the Speech of His Honour the Lieutenant-Governor, moved by Mr. Turner, as follows:—

To strike out all the words after the word "basis" on the 13th line thereof, and add in place thereof the following:—

"That in view of the defeat of the Government on Thursday, the 4th inst., on the Resolution for the consideration of the Speech of His Honour the Lieutenant-Governor, and on the Resolution for the adjournment of the House:

"Therefore, be it Resolved, That the Government has lost efficient control of this House, and also the confidence of the country"—

was resumed.

Mr. Clifford moved in amendment to the amendment, seconded by Mr. Irving,—

After the word "following" on the second line, insert the following: "That in view of the legislation by the Government last Session enacting the alien law having proved highly detrimental to the mining industry of the Province, by obstructing the introduction of capital and by hampering the development of our mines, and."

Mr. Speaker FORSTER ruled the amendment out of order, as it was not competent to make such a motion until the House has resolved that the words proposed to be left out by the original amendment shall not stand part of the question. (*May* 10th edition, page 284.)

Amendments cannot be made to that part of the Resolution which the House has voted shall stand part of the Resolution.

The Hon. Mr. McBride moved the following Resolution, seconded by the Honourable Mr. Tatlow:— 25th March, 1907. Journals, p. 37.

Whereas by letter dated 10th day of September, 1906, the Right Hon. Sir Wilfrid Laurier, G.C.M.G., invited the Honourable Richard McBride, Premier of British Columbia, to attend a Conference with the Dominion Government to discuss the financial subsidies to the Provinces, which said invitation was accepted by the said Honourable Richard McBride, etc.

Debate resumed.

Mr. Hawthornthwaite moved in amendment, seconded by Mr. Williams,—

That the Resolution be amended by striking out all the words in section 1 thereof.

Mr. Speaker EBERTS ruled the motion out of order, the House having already decided that the words now proposed to be struck out should stand part of the question. (*See May*, 11th edition, page 294.)

Original question proposed and *Resolved* in the affirmative.

ASSENT TO BILLS.

Practice in assenting to Bills in the absence of the Speaker.

30th March, 1897. Journals, p. 82.

Mr. Speaker HIGGINS gave the following decision:—

On the 4th March instant, His Honour the Lieutenant-Governor came down to the House and, in the absence of the Speaker, assented to two Bills, and I have been asked to decide as to the propriety of this proceeding, as affecting the privileges of the House.

I have carefully compiled from recognized constitutional authorities the passages which seem to bear directly upon the right of the House of Commons of recognition by the Crown, through their Speaker, in all matters affecting the assembling and proroguing of Parliament and the Royal assent to Bills. It will be seen that the privileges of the Commons are secured by custom and practice, which, having been carefully observed for many years, have become the "unwritten law" of the land. The practice of the Canadian Parliament is essentially the same as that of the British Parliament, and no Bill is ever assented to except in the presence of the Commons and the Speaker; nor are the Governor-General's desires made known at the opening of a new Parliament until after the choice of a Speaker has been announced and the choice approved. (*See Bourinot.*)

The custom and practice of this Parliament vary from that of the British and Canadian Parliaments only in so far as they are affected by the existence of but one Chamber here. As there is no Upper Chamber in British Columbia, the Lieutenant-Governor, when his arrival at the House to open or prorogue Parliament, or to assent to Bills, has been announced, is conducted to the Throne by the Sergeant-at-Arms bearing the mace, and the Speaker, who has previously called the House to order by taking the Chair, vacates the Chair as the Lieutenant-Governor approaches the Throne. The Chair is then taken by the Lieutenant-Governor, and the Royal assent signified. The Lieutenant-Governor, preceded by the mace, then retires. The mace is returned to the cushion in front of the Chair, the Speaker resumes his seat, and the House proceeds to the transaction of business. (*See* Journals of B.C. Parliament since Confederation.)

It may not be inappropriate here to quote from a late copy of the London *Times* in support of the practice of the British Columbia House:—

"The Gentleman Usher of the Black Rod, Gen. Sir M. Biddulph, requested the attendance of the House in the House of Lords to hear the Royal assent given to a Bill passed by both Houses. The Speaker, attended by several Hon. Members, proceeded to the House of Lords, and on his return announced that the Royal assent had been given to the Local Government (Elections) Bill." (London *Times* Parliamentary Report, February 17th, 1897.)

I submit the compiled authorities herewith.

At the commencement of every Parliament since 7th Henry VIII., it has been the custom for the Speaker—

"In the name and on behalf of the Commons, to lay claim, by humble petition, to their ancient and undoubted rights and privileges; particularly that their persons and servants might be free from arrests and all

molestations; that they may enjoy liberty of speech in all their debates; may have access to Her Majesty's royal person whenever occasion shall require; and that all their proceedings may receive from Her Majesty the most favourable construction."

To which the Lord Chancellor replies that—

"Her Majesty most readily confirms all the rights and privileges which have ever been granted to or conferred upon the Commons by Her Majesty or any of her royal predecessors."

The authority of the Crown in regard to the privileges of the Commons is further acknowledged by the report of the Speaker to the House, "that their privileges have been confirmed in as full and ample a manner as they have been heretofore granted and allowed by Her Majesty or any of her royal predecessors."

This custom probably originated in the ancient practice of confirming laws in Parliament, that were already in force, by petitions from the Commons, to which the assent of the King was given, with the advice and consent of the Lords.

But whatever may have been the origin and cause of this custom, and however great the concession to the Crown may appear, the privileges of the Commons are nevertheless independent of the Crown, and are enjoyed irrespectively of their petition. (*May*, 10th edition, pages 57, 58.)

The privilege of access is not enjoyed by individual members of the House of Commons, but by the House at large, with their Speaker. (*May*, 10th edition, page 59.)

* * *

That all the proceedings of the Commons may receive from Her Majesty the most favourable construction is conducive to that cordial co-operation of the several branches of the Legislature which is essential to order and good government; but it cannot be classed among the privileges of Parliament. It is not a constitutional right but a personal courtesy, and, if not observed, the proceedings of the House are guarded against any interference on the part of the Crown not authorized by the laws and constitution of the country. (*May*, 10th edition, pages 59, 60.)

* * *

Each House, as a constituent part of a Parliament, exercises its own privileges independently of the other. They are enjoyed, however, not by any separate right peculiar to each, but solely by virtue of the law and custom of Parliament. (*May*, 10th edition, page 60.)

* * *

Whatever Parliament has constantly declared to be a privilege is the sole evidence of its being part of the ancient law of Parliament. "The only method," says Blackstone, "of proving that this or that maxim is a rule of the common law is by showing that it hath always been the custom to observe it"; and "it is laid down as a general rule that the decisions of Courts of Justice are the evidence of what is common law." The same rule is strictly applicable to matters of privilege, and to the expounding of the unwritten law of Parliament. On the day appointed by Royal Proclamation for the first meeting of a new Parliament for dispatch of business, the members of both Houses assemble in their respective Chambers. In the House of Lords, the Lord Chancellor acquaints the House "that Her Majesty, not thinking it fit to be person-

ally present here this day, has been pleased to cause a commission to be issued under the Great Seal in order to the opening and holding of this Parliament." The five Lords Commissioners, being in their robes, and seated on a form between the Throne and the woolsack, then command the Gentleman Usher of the Black Rod to "let the Commoners know the Lords Commissioners desire their immediate attendance in this House to hear the commission read."

* * *

On receiving the message from the Black Rod, the Clerk and the House of Commons go up to the House of Peers. The Lord Chancellor then addresses the members of both Houses, and acquaints them that Her Majesty has been pleased "to cause Letters Patent to be issued, under her Great Seal, constituting us, and other Lords therein named, her Commissioners, to do all things in Her Majesty's name, in her part necessary to be performed in this Parliament." The Letters Patent are next read at length by the Clerk; after which the Lord Chancellor, acting in obedience to these general directions, again addresses both Houses, and acquaints them—

"That Her Majesty will, as soon as the Members of both Houses shall be sworn, declare the causes of her calling this Parliament; and it being necessary a Speaker of the House of Commons should be first chosen, that you, gentlemen of the House of Commons, repair to the place where you are to sit, and there proceed to the appointment of some proper person to be your Speaker; and that you present such person whom you shall choose, here, to-morrow (at an hour stated) for Her Majesty's royal approbation."

* * *

The Commons withdraw immediately after the Queen's pleasure for the election of a Speaker has been signified, return to their own House, and proceed to the election of their Speaker.

* * *

The House meets on the following day, and Mr. Speaker elect takes the Chair and awaits the arrival of the Black Rod from the Lords Commissioners. When that officer has delivered his message, Mr. Speaker elect, with the House, goes up to the House of Peers, and acquaints the Lords Commissioners—

"That in obedience to Her Majesty's commands, Her Majesty's faithful Commons, in the exercise of their undoubted right and privilege, have proceeded to the election of a Speaker, and as the object of their choice he now presents himself at your bar, and submits himself with all humility to Her Majesty's gracious approbation."

In reply, the Lord Chancellor assures him of Her Majesty's sense of his sufficiency, and "that Her Majesty most fully approves and confirms him as the Speaker."

When the Speaker has been approved he lays claim, on behalf of the Commons, "by humble petition to Her Majesty, to all their ancient and undoubted rights and privileges," which being confirmed the Speaker, with the Commons, retires from the bar of the House of Lords.

The Speaker thus elected and approved continues in that office during the whole Parliament, unless in the meantime he resigns or is removed by death. (*May*, 10th edition, pages 146, 147, 149, 150, 152, 153.)

The duties of the Speaker are as various as they are important. He presides over the deliberations of the House and enforces the observance of all rules for preserving order in its proceedings. He puts every question, and declares the determination of the House. As "Mouth of the House," he communicates its resolutions to others, conveys its thanks, and expresses its censure, its reprimands, or its admonitions. * * * He is, in fact, the representative of the House itself, in its powers, its proceedings, and its dignity. * * * The Speaker is responsible for the due enforcement of the rules, rights, and privileges of the House. (*May*, 10th edition, page 187.)

The form in which the Royal assent is signified by commission is as follows: Three or more of the Lords Commissioners, seated on a form between the Throne and woolsack in the House of Lords, command the Usher of the Black Rod to signify to the Commons that their attendance is desired in the House of Peers to hear the commission read, upon which the Commons, with their Speaker, immediately come to the bar. The commission is then read at length, and the titles of the Bills being afterwards read by the Clerk of the Crown, the Royal assent to each is signified by the Clerk of the Parliaments in Norman French; is so entered in the Lord's Journal. (*May*, 10th edition, page 483.)

BILLS, PUBLIC.

A Bill cannot be committed upon the same day it is read a second time.

27th February, 1891. Journals, p.55.

Point of order—"Can a Bill be committed upon the same day it is read a second time?"

Mr. Speaker HIGGINS: I am asked to rule on a point raised by the Honourable the President of the Council—"Whether a *Private* Bill may be sent to a Committee of the Whole immediately after or on the same day it has been read a second time?"

Rule 66 of this House requires that every *Public* Bill shall be read twice in the House before committal or amendment; and

May, 9th edition, page 758, says: "*Private* Bills * * * in every separate stage, when they come before either House, are treated precisely as if they were *Public* Bills. They are read as many times, and similar questions are put, except when any proceeding is specially directed by the Standing Orders; and the same rules of debate and procedure are maintained throughout."

The same authority (page 552) says: "When a Bill has been read a second time, a question is put—'That this Bill be committed?' which is rarely opposed, being a *mere formal sequel* to the second reading, not admitting of any discussion of the merits of the Bill itself. When this question has been agreed to, *a day is named* for the committee. When the *order of the day* is read in the Commons, for the House to resolve itself into a committee on the Bill, the Speaker puts the question—'That I do now leave the Chair?'"

Bourinot, although not an authority in this House, is of value in the elucidation of the point raised, as showing the practice of the Canadian House of Commons. That authority (page 532) says:—

When a Bill has been read a second time (short) by the Clerk, the *next question* will be proposed—'That the House go into Committee on the Bill on ——— next?' which motion generally passes, *nem con.*, like all such formal motions, though it is quite regular to move an amendment as to the time of committal. When the order of the day for committee has been reached and called in due form, the Speaker will put the question—'That I do now leave the Chair?'"

I have no hesitation in ruling that, under *May*, a Bill, whether Public or Private, cannot be committed except it is on the Orders of the Day for such committal; that it cannot be committed the same day on which it has been read a second time; and that the words "a mere formal sequel" mean the *order for committal*, for which a day is set, and not the committal of the Bill immediately after the second reading, as has been the practice in this House for some years when dealing with Public Bills.

A Bill having been altered between introduction and second reading, not allowed to proceed.

2nd April, 1889. Journals, p. 75.

Pursuant to Order, Mr. T. Davie moved,—

That Bill (No. 13) intituled "An Act to amend the 'Supreme Court Act'" be read a second time now.

Mr. Beaven objected to the Bill being allowed to proceed, on the following grounds:—

1. That the Bill now being considered was not the same Bill as introduced.

2. That the Bill dealt with the constitution of Courts, and therefore interfered with the prerogatives of the Government, and could not be introduced by a Private Member.

Mr. Speaker POOLEY reserved his decision on the second point, but considered the first point well taken, and ruled the Bill out of order.

It is not necessary to give notice of amendments to Bills to be proposed in Committee of the Whole.

Mr. Speaker WILLIAMS gave his decision in answer to the question "Is notice of amendments offered to Bills in Committee necessary?" as follows:— 7th March, 1881. Journals, p. 30.

I am of opinion that no such notice is required. Rule 48 states that the Rule which requires notice of motion to be given is not to apply to Bills after their introduction. *May* is silent on the subject, but states, on page 529, that on the consideration of the Report on any Bill, no clause or important amendment may be added without notice having been first given. I imply from this that if notice was required on the same amendments being offered in Committee it would have been so stated.

Any amendment or clause may be moved in Committee of the Whole, provided they are within the title and scope of the Bill.

Bill (No. 42) "An Act to amend the Assessment Acts" read a second time and committed. 22nd March, 1887. Journals, p. 62.

Upon Mr. Speaker resuming the Chair, Mr. Thompson, Chairman of the Committee, reported progress and asked leave to sit again; also that objection had been taken in Committee to the right of a Member to move as new clauses to the Bill clauses contained in a Bill already on the Orders of the Day for a second reading; and that the Committee desired Mr. Speaker to decide the point of order.

Mr. Speaker POOLEY: It is competent for any Member to move amendments, or to add new clauses, so long as they are within the title and scope of the Bill under consideration.

A Bill passed third reading is not open to amendment.

Pursuant to Order, the adjourned debate on the question—"That Bill (No. 20) intituled 'An Act respecting the Profession of Medicine and Surgery' do now pass," was resumed. 29th March, 1889. Journals, p. 72.

Mr. Speaker POOLEY gave the following decision on the question:—

"Can an amendment be moved to the question 'That the Bill do pass?'"

In *May*, 8th edition, page 536, the following words appear:—

"This question has sometimes passed in the negative, after all the previous stages of the Bill have been agreed to; but though amendments have been proposed, and debates and divisions have occasionally taken place, it is not usual to divide upon it," and (*May*, 9th edition, page 582) "if it be put in the case of a severely contested Bill, no amendment is permissible." This quotation from the 9th edition appears to be authorized by the ruling of the Speaker of the House of Commons given on the 28th February, 1881.

By section 131 of our Rules and Orders, "In all unprovided cases, the rules, usages, and forms of the House of Commons of the United Kingdom of Great Britain and Ireland shall be followed."

It appears to me, therefore, that an amendment is out of order at this stage; the ruling of the Speaker before referred to is based upon the then existing rules and usages of the House, and not upon any new rule.

I also find in *Bourinot*, edition of 1884, page 551, that a member, at this stage of a Bill, "proposed to send a Bill respecting Insolvency back to Committee, but the Speaker ruled that such an amendment was inadmissible at this stage, the third reading having been agreed to."

Bill read a third time and passed.

"Legal Professions Bill" held to be a Public Bill.

16th April, 1883. Journals, p. 59.

Mr. McTavish moved the second reading of Bill (No. 23) intituled "An Act relating to the Legal Professions."

Mr. Beaven objected to the Bill being proceeded with as being a Private Bill.

Mr. Speaker MARA ruled it to be a Public Bill, and could be proceeded with as such.

Bill respecting the Profession of Medicine and Surgery not a Private Bill.

25th February, 1886. Journals, p. 36.

According to Order, the adjourned debate on the motion for the second reading of Bill (No. 6) intituled "An Act respecting the Profession of Medicine and Surgery" was resumed.

Mr. Beaven objected to the Bill being proceeded with as being a Private Bill.

Mr. Speaker MARA ruled that the Bill was in the interests of the public, and could be proceeded with as such.

Bill for Trial of Election Petitions a Public Bill.

10th January, 1899. Journals, p. 9.

Pursuant to Order, Hon. Attorney-General Martin moved—That Bill (No. 1) intituled "An Act to make Provision for the Trial of certain Election Petitions after the Session of the House of Assembly" be read a third time now.

Mr. Turner moved in amendment, seconded by Mr. Eberts,—

That the Order for the third reading be discharged and the Bill recommitted.

Mr. Eberts raised the point of order that the Bill was a Private Bill.
Mr. Speaker FORSTER: The Bill is a Public Bill, and I so decide.
Mr. Eberts appealed from the ruling of the Chair.
The Chair was sustained.

Bill relating to Architects held to be a Public Bill.

Bill (No. 56) intituled "An Act respecting the Profession of Architects." 31st March, 1892. Journals, p. 84.

Point of order—"That the Bill was a Private Bill."

Mr. Speaker HIGGINS: I have been asked if Bill No. 56, relating to Architects, is properly before the House, the contention being that it should have been brought in as a Private Bill.

I find that the Dental Bill, the Medical Bill, the Pharmaceutical Bill, and the Legal Professions Bill were all introduced as public measures. In the Session of 1881, objection being made to the Legal Professions Bill that it should have come in as a Private Bill, Mr. Speaker WILLIAMS (page 25, Journals of the House) sustained the objection.

In Session of 1883 (page 59, Journals of the House), Mr. Speaker MARA ruled that a Bill intituled "An Act relating to the Legal Professions" was a Public Bill.

In the Session of 1886 (page 36, Journals of the House), objection was taken to proceedings with a Bill respecting the Profession of Medicine and Surgery on the ground that it was properly a Private Bill. Mr. Speaker MARA held that the Bill was in the interest of the public, and could be proceeded with as such.

The weight of the authorities and precedents established by this House is in favour of Bill No. 56 being a Public Bill, and I so rule.

A Quasi-Private Bill, having passed through several stages as a Public Bill, allowed to proceed as a Hybrid Bill.

Bill (No. 12) intituled "An Act respecting the Corporation of New Westminster," being a Private Bill, but introduced as a Public Bill. 8th April, 1891. Journals, p. 118.

Objection—"That the Bill was a Private Bill."

Mr. Speaker HIGGINS: This Bill was introduced as a Public Bill. It passed the first and second readings, and went to Committee of the Whole on February 4th.

On motion—

"It was *Resolved*,—That the Committee rise, report progress, ask leave to sit again, and recommend to the House that the Bill be referred to a Select Committee consisting of the members forming the Private Bills Committee, with instructions to give fourteen days' notice, by advertisement in the New Westminster papers, so as to afford private parties (if any) affected by the Bill an opportunity to appear before the Committee, and with power to hear evidence and to report to the House.

"The Committee reported the Resolution.

"Report considered forthwith, adopted, and agreed to."

On the 2nd April, the Private Bills Committee, sitting as a Select Committee, reported, *inter alia*, that the Bill should have been introduced as a Private Bill.

The circumstances attendant upon the introduction of the Bill are peculiar, and, I think, unprecedented in the practice of this House. I find that the notices required by the Standing Orders in the matter of Private Bills were published, but that, pending the presentation of the customary petition, it was arranged that the measure should come in as a Public Bill. It is in order to amend or define a Private Bill by a Public Bill. (*See* Mr. Speaker POOLEY's ruling in the Journals of this House, page 21, Session of 1887, where it is held that the Sumas Dyking Act, a Private Bill, could be amended by a Public Bill, and it was done accordingly.)

Bill No. 12 aims to indemnify the Corporation of the City of New Westminster for having, as is alleged, exceeded the powers conferred by the city charter. Under ordinary circumstances, I think that Rule No. 76 would have offered an insurmountable barrier to the bringing forward of the Bill as a public measure. But the circumstances attending its introduction, and the proceedings in the House and Committee anterior to its reference to a Select Committee, were of an extraordinary character. It was read a first and second time, and committed as a Public Bill. Then it was removed from Committee of the Whole and sent to a Select Committee for report. The report of that Committee shows that public as well as private interests are seriously affected by the measure. The Select Committee has advised that the Bill should have been treated as a Private Bill. If that course should be taken, it can scarcely come again before the House during the present Session; and deep and lasting injury might be inflicted on all parties, the public, perhaps, being the greatest sufferer.

I have been greatly perplexed in considering the various points involved, and have had extreme difficulty in making a ruling. There is a class of local Bills in the British House of Commons, *quasi*-private, known as hybrid Bills. They are generally Bills for carrying out national works, or relating to Crown property, or other public works in which the Government is concerned; or they sometimes deal with matters affecting the Metropolis.

Bill No. 12 is local in its character. The petition required in the case of Private Bills was waived by the House when it admitted and read the Bill twice as a Public Bill, and considered it in Committee of the Whole. The resolution reported from Committee of the Whole to refer to a Select Committee casts no doubt on the *status* of the Bill, and it is only when the Select Committee has reported that doubt is felt.

Taking into consideration all the circumstances,—the fact that the required notices were published; that the Bill came in as a public measure; that it has been read twice and referred to Committee of the Whole as such; that the public have had ample opportunity to be heard for or against it; and that both public and private interests are involved,—I am of opinion that the Bill should be regarded as a hybrid, and that the order for Committee of the Whole is in order.

A Bill, introduced as a Public Bill, to validate certain municipal by-laws, held to be a Private Bill.

Bill (No. 89) intituled "An Act to declare valid certain By-laws passed by the Municipal Council of the Municipality of Surrey," introduced as a Public Bill. 6th April, 1891. Journals, p. 113.

Objection—"That the Bill was a Private Bill."

Mr. Speaker HIGGINS: This Bill cannot be considered as a Public Bill. Rule 76 expressly lays it down that Bills "for doing any matter or thing which in its operation would affect the rights or property of other parties, or relate to any particular class of the community, or for making any amendment of a like nature to any former Act," can only be introduced as a Private Bill, and after the publication of the usual notices.

The Bill in question aims to indemnify the Municipal Council of the Municipality of Surrey for having exceeded the powers conferred by the "Municipal Act, 1889." *May*, page 768, 9th edition, says that Bills for "enlarging or altering the powers of charters and corporations" are Private Bills of the first class. And on page 745, same edition, says that, whether a Bill "be for the interest of an individual, a public company or corporation, a parish, a city, or county, or other locality, it is equally distinguished from a measure of public policy in which the whole community are interested."

I rule that the Order for the second reading of said Bill cannot be moved.

A Bill to amend or repeal a Private Bill may be introduced by the Government as a Public Bill, but not by a Private Member.

14th February, 1887. Journals, pp. 18, 21.

The Honourable Mr. Robson, Provincial Secretary, asked leave to introduce a Bill (No. 7) intituled "An Act to repeal (in part) the 'Sumas Dyking Act, 1878.'"

Mr. Beaven objected to the introduction of the Bill on the ground that, the "Sumas Dyking Act, 1878," being a Private Bill, it could not be amended or repealed by a Public Bill.

Mr. Speaker POOLEY reserved his decision on the point of order raised.

On the 15th February, 1887, Mr. Speaker POOLEY gave his reserved decision on the point of order, deciding the Honourable Mr. Robson to be quite within his rights in introducing the Bill.

Bill introduced and read a first time.

A general Public Bill, the alleged effect of which will be to amend a Private Bill, held to be in order.

The second reading of Bill (No. 17) intituled "An Act to prohibit Aliens from voting at Municipal Elections" was moved. 21st March, 1902. Journals, p. 38.

Mr. McPhillips raised the point of order: "That the Bill proposed to amend a Private Bill, viz., the 'Vancouver Incorporation Act,' and could not be introduced by a Private Member."

Mr. Speaker POOLEY: The Bill is a general one. I can only deal with the Bill as it appears before me. It does not propose to amend any Private Bill. I must rule the Bill to be quite in order.

The Chair was sustained on appeal.

A Private Member may not introduce a Public Bill to amend a Private Act.

13th May, 1898. Journals, p. 166.

Pursuant to Order, Mr. Helmcken moved,—

That Bill (No. 73) intituled "An Act to further amend the Act 44 Victoria, Chap. 19, and Acts amending the same," be read a second time now.

Mr. Sword raised the objection that the Bill was not in order, as it was not competent for a Private Member to introduce a Public Bill to amend a Private Act.

19th May, 1898. Journals, p. 185.

Mr. Speaker BOOTH gave the following ruling on the point of order raised:—

Objection was raised by the Member for Dewdney to the second reading of Bill No. 73, proposing to amend chapter 19 of 44 Vict., on the ground that it is not competent for a Private Member to propose an amendment to a Private Act.

The ostensible object of this Bill is to amend a Public Act passed for the purpose of restricting powers granted by a Private Act; and were this Bill confined to a modification of such restrictions, it might have been in order.

This Bill, however, instead of attempting to modify the restrictions imposed, appears to go beyond the Public Act, and proposes to place still greater restrictions on the powers given under the Private Act referred to.

This appears to me to be beyond the power of a Private Member of the House, as it cannot be contended that amending a Private Act in one particular by a Public Act opens the whole Act to review at any subsequent occasion.

I must therefore rule that this Bill is out of order.

Mr. Helmcken appealed from the decision of the Chair, upon the following grounds:—

1. That the present Bill and the Act proposed to be amended are Public Acts.

2. That it has already been decided that the Act proposed to be amended is a Public Act, when objection was taken to its introduction by the Hon. the Attorney-General.

3. That the Act proposed to be amended and the Act of this Session, Bill No. 62, are both Public Bills, and were introduced, not as Government measures, but by members of the Executive in their private capacity.

The Chair was sustained.

In the absence of the Member in charge of a Bill, the stages may be moved by another Member.

Mr. Speaker POOLEY gave the following ruling on a point of order raised yesterday with reference to the third reading of Bill (No. 99) intituled "An Act to amend the 'Mineral Act,'" which had been moved in the absence of the Member having charge of the Bill, and without his authority:— 20th June, 1902. Journals, p. 196.

Bill (No. 99) intituled "An Act to amend the 'Mineral Act'" stood on the Order Paper for third reading.

Mr. Martin, the senior Member for Vancouver, had charge of the Bill.

When this Bill was called up for third reading on 19th June Mr. Martin was absent, and Mr. McInnes, the Member for North Nanaimo, without the authority of the Member in charge of the Bill, moved the third reading, as the Session was drawing towards its close and he desired to facilitate business.

Mr. Martin, upon his return to the House, objected to the course pursued by the Hon. Member from North Nanaimo, and asked to have the Bill reinstated on the Orders of the Day in the position in which it was, as he desired to make a motion with regard thereto, on the ground that the Member for Nanaimo had no authority to move the third reading of the Bill, and the third reading had been passed by mistake.

Mr. McPhillips objected, on the ground that the Bill having been read a third time it had passed out of the jurisdiction of this House.

As an Order of the Day results from the vote of the House upon a question put from the Chair, the right to move an Order of the Day, to a certain extent, belongs to the House at large, and is not vested solely in the Member who has charge of the Order. In his absence the question thereon may be moved by another Member. (*May*, 10th edition, pages 248, 249. E.D., Vol. 305, page 353.)

In view of the foregoing authorities, I am of opinion that the Bill has been properly read a third time, and has passed out of the jurisdiction of this House.

A Bill providing for the appointment of officials to carry out its provisions cannot be introduced by a Private Member without Government consent.

Upon the second reading of Bill (No. 15) intituled "An Act to regulate Immigration into British Columbia,"— 18th April, 1902. Journals, p. 72.

Objection was taken that by clause 7 of the Bill, which reads as follows:—

"7. The Lieutenant-Governor in Council may from time to time appoint and at pleasure remove officers for the purpose of carrying out the provisions of this Act, and may define the duties of such officers, and may from time to time make, amend, and repeal rules and regulations for the better carrying-out of the provisions of this Act,"—

certain officers were to be appointed, the salaries of whom would have to be provided by the Government. These salaries, together with the other expenses necessary to the proper carrying-out of the provisions of the Bill, would constitute a charge upon the revenue.

Mr. Speaker POOLEY: I think the objection is well taken. The Bill cannot be introduced by a Private Member without the consent of the Government. I must rule it out of order.

Bills dealing with Crown lands may be introduced by Minister of the Crown, or by Private Member with consent of the Crown.

17th February, 1899. Journals, p. 61.

With reference to the question whether a Bill dealing with the Crown lands of the Province must be introduced to the House by a Message from His Honour the Lieutenant-Governor, Mr. Speaker FORSTER gave the following ruling:—

May (page 421) lays down the rule that the "subject of such Messages are usually communications in regard to important public events which require the attention of Parliament; the calling-out for service of the militia and reserve forces; the prerogatives or property of the Crown; provision for the Royal Family, and other occasions which compel the Executive to seek for pecuniary aid from Parliament."

On page 243 of *May* mention is made of the Royal recommendation being given by a Minister of the Crown to Bills affecting the Royal prerogatives, the hereditary revenues, and the personal property of the Crown. In our own practice, since 1890, many more Bills dealing with Crown lands have been introduced directly by Ministers of the Crown than have been introduced by Message.

Therefore, I rule that any measure dealing with Crown lands may be introduced by a Minister of the Crown directly to the House, or by a Private Member with consent of the Government.

Penalties imposed as procedure to enforce Bill not to be considered as affecting revenue.

17th April, 1902. Journals, p. 69.

Bill (No. 24) intituled "An Act to amend the 'Master and Servant Amendment Act, 1902,'" was again committed.

A point of order arose in the Committee, which was reported to the House.

Mr. Speaker POOLEY: I am asked to decide the point of order reported to me, viz., that clause 5* of the Bill dealt with revenue, inasmuch as it imposed certain penalties for enforcing the provisions of the Bill. The Bill is not a revenue Bill; there is no suggestion of any appropriation of revenue. The penalties imposed are matters of procedure only. I must therefore support the Chairman and rule the clause to be in order.

Bill again in Committee.

* 5. A master who shall refuse to comply with the two preceding sections, or shall use any influence or intimidation in the selection of a medical practitioner as aforesaid, shall be liable to a penalty of fifty dollars ($50) for each offence, to be recovered on complaint of any person under the provisions of the "Summary Convictions Act."

A Private Member cannot introduce a Bill to repeal a Bill passed the same Session.

Mr. McPhillips asked leave to introduce a Bill (No. 58) intituled "An Act to repeal the 'Placer Mining Act Amendment Act, 1899,' and to amend the 'Placer Mining Act' (being chapter 136 of the Revised Statutes)." 10th February, 1899. Journals, p. 47.

Mr. Speaker FORSTER ruled the motion out of order, on the ground that it was not competent for a Private Member to introduce a Bill to repeal a Bill passed in the same Session. (*See May*, pages 291, 437.)

Amendments declaratory of adverse principle or seeking information may be moved on second or third reading stages, Rule as to notices does not apply to Bills after introduction.

Order called for the third reading of Bill (No. 37) intituled "An Act to amend the 'Land Act.'" 24th April, 1907. Journals, p. 118.

Mr. Oliver moved in amendment, seconded by Mr. Henderson,—

That the Order for the third reading of the Bill be discharged, and the Bill be referred to a Select Committee of five Members of this House, with instructions to inquire into the terms and conditions upon which the lands referred to in the Bill (Point Grey and Hastings Townsite) were sold, with power to call for persons, papers, documents, telegrams, and to take evidence under oath, and to report their findings and the evidence to the House.

Mr. McPhillips rose to a point of order and objected to the motion, on the following grounds:—

1. That under Rule 48 two days' notice of the motion was required.

2. That it was incompetent to make the motion on the third reading stage of the Bill.

Mr. Speaker EBERTS decided that Rule 48 did not apply to Bills after their introduction. That it was competent for any Member to move at the second or third reading stages of a Bill a resolution declaratory of some principle adverse to the principal policy or provision of the Bill, or seeking further information in relation to the Bill by Committee. That the motion was in order. (*See May*, 11th edition, pages 427, 501.)

The motion was negatived on division.

Crown lands. What amendments may be made in Committee of the Whole. Amendments affecting the principle of the Bill as introduced must be presented by Message.

The adjourned debate on the point of order raised by Mr. Oliver on the 24th instant on the third reading of Bill (No. 37) intituled "An Act to amend the 'Land Act'" was resumed. 25th April, 1907. Journals, p. 119.

Mr. Speaker EBERTS ruled as follows:—

On the third reading of this Bill a point of order has been raised that section 10 of the Bill now before the House for the third reading differs so much from the section as introduced by Message that it is out of order, inasmuch as the section as amended should have been introduced by Message.

Section 10 of the "Land Act" as introduced contains a proviso that the section shall not apply to town lots and suburban lands sold by public auction "before" or after the passage of the section, section 10 containing a reservation to the Crown of one-fourth of all townsites.

In Committee the proviso of section 10 so introduced by Message was altered, whereby instead of the absolute exemption of all town lots and suburban lands for the burden of the reservation with or without the consent of the Lieutenant-Governor in Council, the Lieutenant-Governor in Council became authorized to relieve such lands from such reservation. The particular amendment further specifies particular lands as exempt from the reservation, which particular lands were sold by the Crown at public auction before the introduction of section 10. In other words, the section as introduced provided a general exemption of all lands sold by public auction absolutely; the amendment provides for all lands sold by public auction by the Crown contingent upon the Lieutenant-Governor in Council so providing.

The specific mention in the amended section of particular lands as exempt from the reservation does not alter the Crown's interest in the premises, provided that the particular lands mentioned come within the general designation of town lots and suburban lands referred to in section 10. That the particular lands so exempted by the section as amended do come within the general designation of "town lots and suburban lands" is conceded, and would therefore fall within the scope of the Bill as introduced, whether particularly so mentioned in the amendment or generally referred to in the section as introduced. Such amendment is quite consistent with the context of the Bill as introduced and relevant thereto.

With reference to the latter part of the amendment, whereby the reservation is released from the lands so specifically mentioned as having been sold by public auction upon a certain date, it is to be observed that section 10 covers cases of "town lots and suburban lands" sold "before" as well as after the passage of this section.

For the reasons already given, the mention of particular lands which shall be deemed to be relieved from such reservation is not contradictory to the effect of the section as introduced, inasmuch as the original section provided for the exemption of such "town lots and suburban lands." A Committee has full power to amend, even to the extent of nullifying the provisions of a Bill, but may not insert a clause which reverses the principle which the Bill as read a second time affirms. The amendment in question does not, it appears, reverse the principle of the Bill as introduced, the principle being to relieve certain classes of lands from certain reservations in favour of the Crown, the amendment not enlarging the exemptions or adversely affecting the Crown, but, on the contrary, tending to protect the Crown by the requisition of assent by the Lieutenant-Governor in Council before such exemption becomes operative. This is, of course, upon the assumption that the particular lands proposed to be exempted in the amendment come within the general classification of lands set forth in the proviso as introduced, with reference to which there does not appear to be a difference of opinion.

Section 10 declares an imposition upon certain lands in favour of the Crown, and further declares certain other lands free from such imposition.

The amending section likewise declares an imposition upon lands of a class similar to those mentioned in section 10 as subject to such imposition, and further declares certain lands of another class similar to those referred to in section 10 likewise as free from such imposition, and specifies certain lands heretofore sold as coming within the class having such freedom, provided the Lieutenant-Governor in Council assents.

Such alteration does not affect the principle of the Bill as introduced. I therefore decide that the same is in order.

Bill introduced by Message. Amendment proposed in Committee creating incidental charges of taxation should be recommended by the Crown.

Order called for the House to again resolve itself into Committee of the Whole on Bill (No. 4) intituled "An Act to amend the 'Assessment Act, 1903.'" 18th March, 1907. Journals, p. 18.

Mr. Speaker EBERTS gave the following ruling on the reserved point of order reported from Committee of the Whole on the 14th instant for the decision of the Chair:—

The above Bill was introduced by Message in the usual way. When in Committee the clauses at the end of this ruling were introduced. Objection was taken that same could not be introduced except by Message.

It might be that the amendments create no increased taxation, but I have no facts or figures before me to show whether this is the case or not, and as the amendments contemplate the creation of incidental charges of taxation the safer course would be to have them, in the words of *May*, page 529, 10th edition: "sanctioned by the resolution of a Committee appointed upon the recommendation of the Crown and agreed to by the House," and so I rule.

5B. The owner of every salmon-cannery within the Province shall, in addition to the taxes imposed by this Act on real property, personal property, other than salmon and income, be taxed at the rate of two cents on each case of salmon packed by him during the year ending the thirty-first day of December, and in addition to such a tax of one per cent. on the total price for which any salmon, other than canned salmon, has been sold by him during said year. The total pack of canned salmon, and of salmon other than canned salmon, for the year ending thirty-first December, 1906, shall be taken as the basis of assessment and taxation for the year 1907, and thereafter a similar principle shall be adopted, by taking the total pack of canned or other salmon of the year preceding the date of assessment as the basis of assessment and taxation for the current year's assessment roll or supplementary roll for said year. The owner of every salmon-cannery shall, not later than the thirty-first day of January in every year, furnish to the Assessor a return on a form to be supplied by the Assessor, showing the total number of cases of salmon packed by him for the year ending the immediately preceding thirty-first day of December, together with the number or quantity of salmon sold or marketed by him under any other process than canning (such as freezing, curing, or pickling), and the price for which the same were sold or marketed.

5C. The personal property other than salmon of every salmon-cannery liable to assessment under this Act shall include machinery, stores, goods, and other chattels usually employed by and found at salmon-canneries, or used in connection with the trade of salmon-canning, or of preparing and converting the natural salmon into an article of commerce, whether by canning, freezing, curing, or pickling, or by any other process, and such personal property shall be assessed in one sum at the following fixed and specified amounts for each cannery, as the same may respectively be applicable to each cannery: The personal property of a one-line cannery shall be assessed in one sum at the value of ten thousand dollars, a two-line cannery at the value of fifteen thousand dollars, a three-line cannery at the value of twenty-two thousand five hundred dollars, and a four-line cannery at the value of thirty thousand dollars; and if any cannery shall be established having a greater capacity than four lines, then the assessed values shall be increased ten thousand dollars for each additional line above four lines.

5D. The term "salmon" in this section shall include all kinds and classes of fish, usually known and described by the trade names of sockeyes, red and white

springs, humpbacks, dog salmon, cohoes, and steelheads, and the term "one-line cannery" shall mean and include a cannery where the operating machinery is used in one continuous and complete process for the purpose of converting the natural salmon into canned salmon, or salmon otherwise prepared for the market as an article of commerce, and, similarly, the terms "two-line," "three-line," or "four-line" canneries mean and include canneries where a double, triple, or quadruple plant is operated to produce canned or prepared salmon for the market by similar continuous and complete processes.

5E. The taxes payable under this section shall be subject to all the provisions of this Act with regard to the due date, collection, and proceedings for recovery of the other taxes imposed in this Act, and as the assessment of the personal property of the owners of salmon-canneries has been fixed by the revised assessment roll for the year 1907 on a principle different from that set forth in the preceding sections, the Assessor is authorized to cancel such assessment and to correct the said roll in accordance herewith, and to send corrected notices of assessment to each of said owners, and the amount shown due on each of said corrected notices shall be the tax payable for the year 1907, and no appeal against such corrected assessment and tax for said year shall be allowed.

Grants in aid cannot be increased in Committee. Railway Aid Loan Bill in Committee. Amendment to a clause increasing the amount payable by Province as a bonus or changing destination of said bonus cannot be moved. Appeals to the House from the rulings of the Chairman are reported by the Committee on motion.

8th May, 1901. Journals, p. 131.

Bill (No. 84) intituled "An Act to authorize a Loan of Five Million Dollars for the Purpose of aiding the Construction of Railways and other Important Public Works" was committed.

The Chairman reported that a point of order had arisen in the Committee, and that an appeal had been taken from the Chairman's ruling.

Mr. Neill moved to amend section 8 by striking out subsection (*b*), and inserting the following in lieu thereof:—

"(*b*.) For a railway from the present terminus of the Esquimalt and Nanaimo Railway to the northern end of Vancouver Island, and for a railway between Nanaimo and Alberni, approximately two hundred and seventy miles."

The clause (*b*) proposed to be struck out reads as follows:—

"(*b*.) For a railway from the present terminus of the Esquimalt and Nanaimo Railway to the northern end of Vancouver Island, approximately two hundred and forty miles."

The Chairman ruled the motion out of order.

Mr. Speaker BOOTH: I think the ruling of the Chairman was quite right. The motion would increase the mileage distance of the road some thirty miles, thus increasing the bonus to be paid by the Province. The result of the motion would also change the destination of the bonus proposed to be granted by the Bill. (*See May*, 10th edition, page 580.)

The third Member (Mr. Gilmour) for Vancouver called my attention to the following statement in *May*, page 532:—

"The Committee is not bound by the terms of the provisions which the Ministers of the Crown have inserted in the Bill, and any Member may propose an increase of the grants specified in these clauses, or extend the application of the provisions of the Bill, * * * so long as the Royal recommendation is not exceeded."

The above only has reference to Bills where the recommendation of the Crown is framed in general terms, and places no limitation on the amount of expenditure to be authorized by the Bill.

In the Bill before the House the amounts are distinctly specified and limited, so that the quotation has no bearing on the present case.

I have also been asked to decide whether a Member in Committee of the Whole can appeal from the Chairman's ruling direct to the House, without any motion or direction from the Committee that the point of order, ruling thereon, and appeal therefrom, be reported?

I think the Chairman has no power to make any report to the House unless so directed or instructed by the Committee.

(*See May*, 10th edition, page 365, and note 12 H.D., 3 s., 1243.)

The Chair was sustained on appeal.

Proposed amendments to Bill sent down by Message affecting the principle of Bill cannot be moved. Report on Loan Bill No. 54.

22nd April, 1897. Journals, pp. 126, 127.

Mr. Sword moved to add to end of section 8:—

"Any money hereby authorized to be granted in aid of any of the sections herein mentioned shall be used by the Government, together with what additional grant may be obtained from the Dominion Government, in constructing such railway as a Government work, the balance required for such construction to be obtained from the sale of bonds secured on the railway to be built, without any Government guarantee: Provided, however, that should the average cost per mile of any of the railways be, on examination, estimated to exceed $25,000, the Government shall not be authorized to expend any part of the subsidy herein granted until further authority is obtained from the Legislature."

Ruled out of order.

Mr. Helmcken moved to add as a new section, to be known as section 19:—

"19. The Lieutenant-Governor in Council, at any time hereafter on giving two years' notice to the Company, may acquire any line of railway to which a subsidy has been granted, paying to the Company therefor:—

"(*a.*) Should the railway be taken over at any time within ten years from the date of the payment of the subsidy, the amount of money bona fide expended in actual construction over and above the amount of the subsidy herein authorized, and any additional aid which may be obtained from the Dominion Government or any other Government or corporation, together with such further sum as, after allowing for any surplus of receipts over working expenses, will make up ten per centum per annum; or

"(*b.*) Should the railway be taken over at any time after the aforesaid date, such sum as the railway may at that time be valued at, less the amount of the subsidy contributed by the Province and without making any allowance for the value of the franchise, and an additional amount of ten per centum of such valuation:

"(*c.*) In either event, the debts and bonded indebtedness of said railway to be purchased shall be deducted from the amount of the purchase-money, and the balance (if any) to be paid to the Company."

Ruled out of order.

Amendments in Committee must be relevant. Instructions required to move amendments not within scope of the Bill.

9th May, 1901. Journals, p. 132.

'Bill (No. 33) intituled "An Act to amend the 'Legal Professions Act'" was again committed.

The Chairman reported that a point or order had arisen in Committee, and that an appeal had been taken from the ruling of the Chair.

Mr. Martin moved in Committee to add the following new section: "That the Third Schedule to said chapter 24 is hereby amended by striking out the words 'you shall not be guilty of champerty or maintenance' where they occur therein."

The Chairman ruled the motion out of order, as not being within the scope of the Bill.

Mr. Speaker BOOTH: I must support the ruling of the Chair. Amendments in Committee must be relevant to and consistent with the context of the Bill as read a second time.

Proposed amendments not within the scope of the Bill can only be considered by the Committee when an instruction thereon has been given by the House. (*See May*, 10th edition, pages 452, 458, 462.)

The Chair was sustained on appeal.

(*See* Ruling on 10th May, 1901, page 57.)

Amendments must be relevant and within scope of the Bill. Amendments creating public offices entailing public expenditure cannot be made.

16th May, 1902. Journals, p. 114.

Order called for adjourned Committee on Bill (No. 44) intituled "An Act to amend the 'Bills of Sale Act.'"

Mr. Speaker POOLEY gave the following decision on a point of order raised in Committee:—

The Chairman reported to me that in Committee Mr. Murphy had moved to add the following as new sections to the Bill:—

"3. Said section 9 is hereby further amended by striking out the word 'Clinton' in the fourteenth line thereof, and inserting in lieu thereof the word 'Ashcroft.'

"4. All bills of sale registered prior to the coming into force of this Act in the office of the Registrar of the County Court at Clinton, and all books and documents in connection with the said chapter 32 in the office of the Registrar of the County Court at Clinton, shall, upon the coming into force of this Act, be transferred to the office of the Registrar of the County Court at Ashcroft, and shall be in the custody of the County Court Registrar at Ashcroft, who may give all certificates required to be given by said chapter 32."

That Mr. Smith had raised the following points of order:—

1st. That the amendments were irrelevant to and not within the scope and title of the Bill.

2nd. That a new office would be created, involving the expenditure of public money.

That he had ruled against the said objections, and the Committee had referred the matter to me for a decision.

As to the first point: I am of opinion that the clauses can be dealt with by the Committee. (*See May*, 10th edition, pages 452, 453, and English H.C. Standing Order 34.)

As to the second point: The clause called for the creation of a new office at Ashcroft, and therefore would entail an expenditure of public moneys. I am of opinion that this point is well taken, and the clause cannot be entertained without the consent of the Government.

Amendment not within the scope of the Bill.

The Report on Bill (No. 66) intituled "An Act respecting the Pacific Northern and Omineca Railway" was considered. 10th March, 1909. Journals, p. 119.

Mr. Hawthornthwaite moved to add the following to section 3:—

"Provided always that the extension of time herein contained shall not be construed to extend to said Company the time limit in which it could earn the Provincial bonus of $5,280 per mile previously granted."

Mr. McPhillips raised the point of order: "That the amendment was not within the scope and title of the Bill."

Mr. Speaker EBERTS: The amendment refers to a bonus. I can find no bonus referred to in the Bill or the Act proposed to be amended. I understand a bonus was granted the Company by another Bill. I therefore rule the amendment out of order.

The Chair was sustained on appeal.

Amendments in Committee. A Bill presented by Message can be amended in Committee of the Whole so long as such amendments are within the scope and title of the Bill and do not impose charges on the people.

Mr. Speaker EBERTS gave the following ruling on a point of order raised as to Bill (No. 25) intituled "An Act to aid the University of British Columbia by a Reservation of Provincial Lands":— 18th April, 1907. Journals, p. 96.

This Bill, originally introduced by Message, proposed an authorization to the Lieutenant-Governor in Council to grant two millions of acres of land in aid of higher education in the Province.

As introduced, the Bill proposed that this grant should be made direct to the University of British Columbia, subject to certain trusts therein contained. The Bill as amended and now before the House on Report alters the original proposal in this respect, that instead of the grant being made direct to the University, it may be made from time to time to various persons applying therefor, under the provisions of the "Land Act." In either case, taxes or royalties would not accrue till after alienation, the practical difference being that in one case the alienation should be made to the corporation directly to be benefited, and in the other case to outside parties, and the proceeds thereof applied to the benefit of the corporation. So far as taxes and royalties to the Crown are concerned, no material difference arises whether the tax is paid directly by the University or by third parties.

The question of the obligations of the Government with respect to the construction of roads and bridges through the area to be granted is not measurable by the incident of particular or individual ownership of the land.

There is no indication in the Bill that the administration and disposal of the area under the "Land Act" will either increase or diminish the expenses of the Government or materially alter the cost thereof, whether granted directly to the University Corporation or to individuals.

For these reasons I am of opinion that the point of order that the Bill as introduced has been so materially altered from the one now before the House on Report as to necessitate a fresh Message is not well taken.

I rule the Bill in order.

15th January, 1895. Journals, p. 75.

The Report on Bill (No. 34) intituled "An Act to provide Four hundred and twenty thousand Pounds for the Public Purposes of the Province" was considered.

Mr. Sword raised objection to the Bill, as exceeding the scope of the Bill as submitted by Message.

Mr. Speaker HIGGINS ruled as follows:—

The point advanced by the Hon. Member for Dewdney, that Bill No. 34, as reported from the Committee of the Whole, had been amended so as to enlarge the scope of the Bill as transmitted to the House by the Lieutenant-Governor, is, in my opinion, not tenable. The amendment of section 2 of the Bill does not confer power beyond that contemplated by the Bill as originally laid before the House.

Amendment not within the scope and title ruled out of order.

5th April, 1907. Journals, p. 56.

Bill (No. 25) intituled "An Act to aid the University of British Columbia by a Grant of Provincial Lands" was committed.

The Chairman reported to Mr. Speaker that in Committee Mr. Hawthornthwaite had moved the following amendment:—

To add to section 2 the following words: "Provided always that two hundred and fifty thousand acres of said two million acres shall be used to provide free school-books for use of pupils in the public schools."

And a point of order had been raised thereto, viz., that the amendment was not within the scope and title of the Bill, and that he had ruled the amendment out of order. An appeal had been taken from his ruling to Mr. Speaker.

Mr. Speaker EBERTS decided that the point of order was well taken, and the amendment out of order.

The Chair was sustained on appeal.

Amendments importing new features not within the scope and principle of the Bill cannot be moved.

Bill (No. 76) intituled "An Act to amend the 'Land Act'" was committed. 7th April, 1905. Journals, p. 119.

The Chairman reported an appeal to the Speaker from his decision on a point of order, upon which the following ruling was given:—

Mr. Speaker POOLEY: In Committee the Hon. Mr. Tatlow moved to amend section 41, chap. 113, as enacted by section 6, chap. 38, Statutes of 1899, by adding the following as subsection (6):—

"(6.) The Lieutenant-Governor in Council may grant to any incorporated city owning and operating its own system of waterworks a lease of the vacant Crown lands from which the whole or any portion of the natural watershed from which such city draws its water-supply, for such term and upon such conditions as may be deemed advisable, and may in such lease define the limits of such natural watershed."

The point was taken in Committee and referred to me that this amendment was not within the title and scope of the Bill before the House.

The Bill is to amend the "Land Act," and no such principle as that set out in this amendment is to be found in the "Land Act." It is importing an entirely new feature, and I think should be brought before the House in a distinct Act, and I therefore decide that this amendment is out of order.

Bill (No. 28) intituled "An Act to amend the 'Game Protection Act, 1898,'" was again committed. 24th March, 1905. Journals, p. 74.

The Committee reported to Mr. Speaker that an appeal had been taken from the decision of the Chair ruling the following motion, moved by Mr. Oliver, to be in order:—

"It shall be unlawful to hunt for, kill, or wound, or to shoot at, or to take by means of traps or any other device, any of the animals or birds mentioned in this Act during the whole of the Lord's Day, commonly called 'Sunday' and any violation of this section shall subject the offender to the penalty provided for killing game during the prohibited season."

Mr. Speaker POOLEY: I think the amendment is within the title and scope of the Bill, as shooting on Sunday is dealt with by section 4 of the "Game Protection Act, 1898, Amendment Act, 1902," and I so rule.

An amendment moved by a Private Member enlarging the scope and effect of a Government Bill ruled out of order.

The Report on Bill (No. 17) intituled "An Act to secure to certain Pioneer Settlers within the Esquimalt and Nanaimo Railway Land Belt their Undersurface Rights" was considered. 28th April, 1903. Journals, p. 44.

Mr. Hawthornthwaite moved to amend subsection (*b*) of section 2 by adding thereto the following words: "and 'settler,' for the purposes of this Act, shall further include all persons who became squatters upon the land with the bona-fide intention of living thereon."

Mr. Speaker POOLEY ruled the amendment out of order, on the ground that it introduced a new class of people to receive the benefits given by the Bill.

Mr. Hawthornthwaite appealed from the ruling of the Chair.

The Chair was sustained on appeal.

Amendment on second reading not within scope of the Bill, not in order.

8th April, 1903. Journals, p. 12.

On the second reading of Bill (No. 2) intituled "An Act to regulate Immigration into British Columbia,"—

Question proposed—"That the Bill be read a second time now."

Mr. Curtis moved in amendment, seconded by Mr. Hawthornthwaite,—

That all the words after "That" be struck out, and the following substituted therefor:—

"The House affirms the principle of Bill (No. 2) intituled 'An Act to regulate Immigration into British Columbia,' and expresses its desire that it shall be added to and form a part of the Supply Bill."

Mr. Speaker POOLEY ruled the amendment out of order.

Amendments on third reading. The same amendments may be moved at this stage as may be proposed on the second reading.

18th June, 1902. Journals, p. 183.

On the third reading of Bill (No. 86) intituled "An Act to aid the Construction of a Railway from Vancouver to Midway,"—

Question proposed—"That the Bill be read a third time now."

Mr. Curtis moved that the motion be amended by striking out all the words after the first word "That" of the question, and substituting therefor the following words: "this House has no confidence in the Government because of its failure to build the railway intended to be aided under Bill (No. 86)—popularly known as the Coast to Kootenay Railway—as a Government work."

Mr. Eberts raised the point of order that the amendment could not be moved at this stage of the Bill.

Mr. Speaker POOLEY: On referring to *May*, 10th edition, page 471, I find "That on the third reading of a Bill such amendments as may be proposed on the second reading of a Bill may be proposed on the motion for now reading the Bill a third time."

On the second reading of a Bill it is competent to a Member who desires to place on record any special reasons for not agreeing to the second reading of the Bill to move an amendment declaratory of some principle adverse to or differing from the principles, policy, or provisions of the Bill, or expressing opinions as to any circumstances connected with its introduction or prosecution or otherwise opposed to its progress. (*See May*, 10th edition, page 446.)

I think the amendment is in order, and I so rule.

(*See* Rule 93.)

Same question may be moved at each stage. Verbal amendments only allowed on third reading. May be recommitted at any time.

Mr. Speaker HIGGINS gave the following decision on a point of order reserved:— 19th December, 1894. Journals, p. 38.

With respect to the motion of the Hon. Member for Victoria City (Mr. Helmcken) to amend the Schedule of Bill No. 3 by adding after the sixth line the following: "Council or solicitor, when certified to by the Magistrate, not exceeding $10," I find that substantially the same motion was negatived on the 28th November, 1894.

Rule 47 of the Rules and Orders of this House provides as follows: "A motion being once made and carried in the affirmative or negative cannot be put again in the same Session, but must stand as a judgment of the House: Provided always that a vote in the affirmative may be rescinded, and an Order of the House discharged, on a motion to that effect; but a vote in the negative can only be rescinded by proposing another question similar in its general purport to that which has been rejected, but with sufficient variance to constitute a new question; and the Speaker, subject to an appeal to the House, will determine whether it is substantially the same question or not."

May, 10th edition, page 291, says: "In passing Bills, a greater freedom is admitted in proposing questions, as the object of different stages is to afford the opportunity of reconsideration. * * * Upon this principle, it is laid down by *Hatzell*, and is constantly exemplified, 'That in every stage of a Bill every part of the Bill is open to amendment, either for insertion or omission, whether the same amendment has been in a former stage accepted or rejected. The same clauses or amendments may be decided in one manner by the Committee, in a second by the House on report, and, formerly, might have been dealt with again on the third reading.'"

May, 10th edition, page 472, says: "Verbal amendments only can be made to a Bill on the third reading. When material amendments are desirable, the Order for the third reading of the Bill may be discharged, and the Bill recommitted, to introduce the amendments in Committee."

I think that the amendment of the Hon. mover is clearly out of order on report, a similar amendment having been negatived on the 28 ult., but that at the third reading stage the Bill may be recommitted, with instructions to the Committee to consider the amendment of the Hon. Member.

BILLS, PRIVATE.

Rules respecting Private Bills must be strictly followed.

16th January, 1895. Journals, p. 77.

The Order for the second reading of New Westminster City Bill (No. 31) having been called, Mr. Speaker HIGGINS said: "The failure of the promoters of this Bill to comply with Rule 76 of the Standing Orders has thrown an odious and disagreeable duty on me. I ought, in the strict line of my duty, to rule this Bill out. The published notices of intention were so vaguely framed that they were calculated to deceive parties interested. Such is not the desire or intention of the House, and may not be of the promoters; and although the Bill is clearly out of order, I will not rule it out unless an Honourable Member shall call my attention to the fact that it is irregularly before the House. These irregularities occur every Session, and the Speaker has often corrected them. The line must be drawn some time, and if I am in this Chair next Session I shall rule out every Bill that shall come before the House irregularly. These remarks will apply to the Vancouver City Act Amendment Bill (No. 23), as well as to Bill No. 31."

Publication of notice under Rule 76 in six weekly issues of newspaper is sufficient.

6th February, 1896. Journals, p. 27.

Mr. Speaker HIGGINS decided, with reference to the questions submitted by the Private Bills Committee for his opinion, that the publication of notice in six issues of a weekly newspaper in the electoral district affected by the Bill would be a sufficient compliance with the spirit of Rule 76, and he would rule accordingly.

The Standing Orders Committee must report before the Rules relating to the introduction of Private Bills can be suspended.

19th March, 1888. Journals, p. 58.

Moved by Mr. Duck, seconded by Mr. Anderson,—

That the Standing Orders be suspended and leave granted to present a Petition from the Municipal Council of the City of Victoria, for leave to introduce a Private Bill.

Mr. Speaker POOLEY: The motion is out of order. The Standing Rules and Orders cannot be suspended to enable a Petition for a Private Bill to be presented until the Committee on Standing Orders have reported upon the matter.

Bill introduced on motion, two days' notice unnecessary.

13th April, 1880. Journals, p. 13.

Mr. Speaker WILLIAMS: After a Private Bill has been favourably reported upon by the Committee on Standing Orders, the Bill may be introduced upon a motion for leave, without giving two days' notice. (*Todd's* Private Bill Practice.)

Clauses in Private Bills not within scope of preamble and notices. The Committee of the Whole may be instructed to consider the same. Rule 76.

On the second reading of Bill (No. 42) intituled "An Act to amend 'An Act to incorporate the Consolidated Railway and Light Company,' and to consolidate certain Acts relating thereto, and to change the Name thereof to the Consolidated Railway Company,"— 10th March, 1896. Journals, p. 71.

The Hon. Member for Dewdney (Mr. Sword) raised the objection that the scope of the Bill did not comport with the notice of intention to apply and the preamble, in that while the notice and preamble provide only for a consolidation of the various powers conferred on sundry other companies, and a validation of the conveyances made by those companies to the consolidated company, preserving for the latter company all the rights the other companies had, no provision is made for this company assuming their obligations, while increased powers are asked for by the Bill.

Mr. Speaker HIGGINS: Rule 76 of our Rules and Orders says:—

"All applications for Private Bills * * * whether for the erection of a bridge, the making of a railway, tramway, turnpike road, telegraph or telephone line, the construction or improvement of a harbour, canal, lock, dam, slide, or other like work; the granting of a right of ferry; the incorporation of any particular trade or calling, or of any joint-stock company; or otherwise for granting to any individual or individuals any exclusive or peculiar rights or privileges whatever, or for doing any matter or thing which in its operation would affect the rights of property of other parties, or relate to any particular class of the community; or of making any amendment of a like nature to any former Act, shall require a notice, clearly and distinctly specifying the nature and object of the application; and, where the application refers to any proposed work, indicating generally the location of the work, and signed by or on behalf of the applicants, such notice to be published," etc.

I have referred to the notice of application and the preamble, and find a wide divergence between them and the context of the Bill. Powers and rights are asked for that do not exist in the original Bills, and obligations and limitations imposed by the same Bills are not referred to at all in the Bill before the House.

I understand that the Bill was opposed, but that the objectors were satisfied and opposition was withdrawn before the Private Bills Committee. Such being the case, the Bill must be regarded as in the public interest; and as the defects may be removed in Committee, I rule that a careful revision of the measure be made on behalf of the promoters, and that instructions be given to the Committee of the Whole to consider those clauses that do not come within the scope of the Bill as set forth in the notice and the preamble. (Pages 452, 453, *May.*)

New matter in Bill not contemplated in published notices must be specially reported by the Private Bills Committee.

23rd February, 1911. Journals, pp. 69, 70.

Order to resume the adjourned debate on the second reading of Bill (No. 54) intituled "An Act to amend the 'Oak Bay Act, 1910.'"

Upon the point of order raised at the last sitting of the House, and upon which Mr. Speaker EBERTS reserved his decision, the following ruling was given:—

On the motion for the second reading of this Bill, a point of order was raised by an Honourable Member from Victoria City (Mr. Thomson) that the Bill before the House should not at this time be further considered and was out of order, as it contained important amendments not contemplated in the advertised notice of the Bill, and quoting section 89 of the Rules governing this House. I have perused a copy of the Bill as originally introduced, and a copy of the Bill reported by the Committee on Private Bills, and in the latter find in section 1 and the Schedule to the Act new matter not contemplated in the advertisement for the Bill, materially affecting the rights of others, and therefore not complying with the Standing Orders of the House.

The report of the Private Bills Committee on this Bill was submitted to the House on the 21st inst., and in same I find no mention of any new matter in the Bill "*that does not appear to have been contemplated in the notice for the same, as reported on by the Committee on Standing Orders.*"

My view of the situation is that the order for the second reading of the Bill be discharged and the Bill referred back for further consideration and report, and in such further report the attention of the House be called specially to any provision in such Bill that does not appear to have been contemplated in the notice for the same, and so I adjudge.

Upon the motion of Mr. Miller, the Order for the second reading of the Bill was discharged, and the Bill referred back to the Private Bills Committee for further consideration and report.

Amendments to Private Bills on report cannot be moved unless the same could have been moved in Committee without an instruction from the House. Rule 93.

2nd April, 1896. Journals, p. 117.

The Report on Bill (No. 46) intituled "An Act respecting the Incorporation of the Sandon Waterworks and Light Company" was considered.

Mr. Hume moved to add after the word "water," in line two of section 40, the words "within one year."

Mr. Speaker HIGGINS ruled the motion out of order, and gave the following decision thereon:—

The amendment to section 40, moved by the Hon. Member for South-West Kootenay (Mr. Hume), is, I think, out of order. Standing Order 41 of the Imperial House of Commons lays it down "that upon the report stage of any Bill no amendment may be proposed which could not have been proposed in Committee without an instruction from the

House." This amendment could not have been moved in Committee without an instruction from the House, and is not in order on report. But under Rule 93 of our own Rules and Orders the amendment may be proposed on a motion to read the Bill a third time.

Preamble differing from published notices and petition. Bill not allowed to proceed.

Upon the calling of the Order of the Day to resume the adjourned debate on the second reading of Bill (No. 29) intituled "An Act to incorporate the Consolidated Railway and Light Company," a point of order arose, and Mr. Speaker HIGGINS gave his decision thereon as follows:— 14th March, 1894. Journals, p. 88.

I am asked to rule upon a point raised by the Hon. Member for New Westminster (Mr. Sword), who has drawn my attention to the fact that the preamble of Bill No. 29 is inconsistent with the published notice of intention and the petition for the Bill.

Rule 76 of our Rules and Orders prescribes that "all applications for Private Bills * * * shall require a notice, clearly and distinctly specifying the nature and object of the application."

Neither the published notice nor the petition would seem to have complied with this requirement, the intention to acquire the property of the "Westminster and Vancouver Tramway Company" appearing for the first time in the Bill. The omission is, in my opinion, fatal to the Bill, and I rule that the point of the Hon. Member for New Westminster is well taken.

Bill (No. 33) intituled "An Act to authorize the Hall Mines, Limited, to construct Tramways and Electrical and other Works in the Vicinity of Nelson" was again committed. 19th March, 1894. Journals, p. 97.

The Chairman reported the following Resolution agreed to in Committee:—

That the Committee rise and report to the House, "That in the opinion of the Committee the preamble in the Bill does not conform with the notice for the same, as published in the Gazette on 21st December, 1893."

Mr. Speaker HIGGINS followed his ruling on Bill 29, and held the objection good. (*See* previous ruling.)

A Private Bill cannot be taken up and proceeded with as a Public Bill except by the Government as a Government Bill.

Upon the Order of the Day Being called for the second reading of Bill (No. 74) intituled "An Act respecting the Horsefly Hydraulic Mining Company (Limited Liability)," a point of order arose, upon which Mr. Speaker HIGGINS gave the following decision:— 30th March, 1894. Journals, p. 121.

On the motion to read a Bill (No. 74) intituled "An Act respecting the Horsefly Hydraulic Mining Company (Limited Liability)" a second time, the Hon. Member for Victoria City (Mr. Beaven) advanced an objection that the Bill is out of order as a Public Bill, as dealing with a Bill which had previously been introduced as a private measure.

May, 9th edition, furnishes many authorities bearing on the point. On page 747 it is stated that in 1857 the "Thames Conservancy Bill," and in 1882 the "Metropolis Management and Floods Prevention Bill," were introduced as Private Bills, on petition; but the latter was afterwards withdrawn and a Public Bill was introduced. Pages 748 and 749 state that "Private Bills also have been solicited for the reform of the Corporation (of the *City of London*) itself, while the Government have prepared public measures, in the interests of the public, for the same object." Other Bills, again, concerning the *City of London*, but at the same time affecting public interests, and involving considerations of public policy, have been introduced and passed as Public Bills. In 1881, and again in 1882 and 1883, the "London City Parochial Charities Bill" was brought in as a Public Bill; and in 1882 a Bill for the same purpose was also introduced, upon petition, as a Private Bill. In 1861 the "Red Sea and India Telegraph Bill," which amended a Private Act, was introduced and proceeded with as a Public Bill, as it concerned the conditions of a Government guarantee.

Bill No. 74 does not comprehend a Government guarantee, but it does deal with public interests, in so far as it proposes to demise to a private company several properties, the title to which is vested in the Crown.

May, page 754, lays it down that a "Bill commenced as a Private Bill cannot be taken up and proceeded with as a Public Bill," and an instance is cited where a Private Bill having been abandoned, Mr. Pope Hennessy gave notice that he should proceed with it as a Public Bill, but it was held that such a proceeding would be irregular. Mr. Pope Hennessy was not a member of the Government, and had the Government decided to proceed with the Bill as a Government measure, I think the objection would not have been held to be good.

The Government having introduced Bill No. 74 as a Government measure, I rule that when the "Horsefly Hydraulic Mining Company's Bill" (No. 22) shall have been withdrawn, Bill No. 74 will be in order, and its second reading may be proceeded with.

The Order to resume the adjourned debate on the second reading of Bill (No. 22) intituled "An Act respecting the Horsefly Hydraulic Mining Company (Limited Liability)" was discharged.

Bill (No. 74) intituled "An Act respecting the Horsefly Hydraulic Mining Company (Limited Liability)" was read a second time.

A Private Bill may be amended by Public Bill sent down by Message.

21st April, 1892. Journals, p. 136.

Bill (No. 76) intituled "An Act respecting the Canadian Western Central Railway Company and the Canadian Northern Railway Company."

Objection—"That it was incompetent to amend a Private Bill by a Public Bill."

Mr. Speaker HIGGINS: The objections raised by the Hon. Senior Member for Vancouver (Mr. Cotton) to this Bill might prevail had the Bill been introduced by a Private Member, or had it sought to alter the time or enlarge the area of the land grant of the Canadian Western Company acquired under the Act of 1889. But Bill (No. 76) only

proposes to extend the time limit for the commencement of construction-work imposed by the Act of 1889, and does not disturb any other of the conditions of that Act. Moreover, the Bill came down by Message from the Lieutenant-Governor, and being a Government measure is not assailable on the grounds stated by the Hon. Member. (Precedent quoted, Bill introduced Session 1879 to amend the "Sumas Dyking Act, 1878." The "Dyking Act, 1878," was a Private Act. The Bill to amend was a Public one.)

Bill (No. 89) intituled "An Act to amend a Private Bill, viz., the 'Consumers' (Nelson) Waterworks Act, 1892,'" was read a second time. 10th April, 1893. Journals, p. 124.

Mr. Beaven raised the point of order that it was not competent to amend a Private Bill by a Public Bill unless a question of Government aid or assistance was involved.

Mr. Speaker HIGGINS overruled the objection, and allowed the mover to proceed with the Bill.

NOTE.—The Bill was introduced by Hon. T. Davie, Premier and Attorney-General.

A Private Member cannot amend a Private Act by a Public Bill.

Upon the Order of the Day being read for the second reading of Bill (No. 14) intituled "An Act to repeal certain Remaining Clauses of the 'Sumas Dyking Act, 1878,' and to repeal the 'Sumas Dyking Amendment Act, 1883,'" moved by Mr. T. Davie, a Private Member,— 25th April, 1888. Journals, p. 110.

Mr. Speaker POOLEY stated that it was not competent for a Private Member of the House to introduce a Bill to amend or repeal a Private Bill without following the procedure governing the introduction of Private Bills. (*See Bourinot*, at pages 608-610.)

Mr. T. Davie appealed to the House, and the Chair was sustained on division.

The order for the second reading of the Bill was then discharged.

Upon the Order of the Day being called for the second reading of Bill (No. 53) intituled "An Act to amend the 'Vancouver Incorporation Act, 1886,'" and a point of order having arisen, Mr. Speaker POOLEY gave the following decision:—

I am asked to decide whether Mr. Orr, as a Private Member, can proceed with a Bill intituled "Vancouver Incorporation Act Amendment Bill" (No. 53). Objection is taken that this is a Bill to amend a Private Act, and therefore interfering with private interests.

In *May's* Parliamentary Practice, 8th edition, folio 692, all Private Bills are required to be brought in by petition, and (folio 693) Bills brought in affecting private interests are required to go through the same formalities as Private Bills. This is also laid down in *Bourinot*, folios 608 and 610.

The Vancouver Incorporation Act was passed through the Legislative Assembly as a Private Bill in 1886, and was amended as a Private Bill in 1887.

Stress has been laid upon the fact that the Act contains a clause (221) which reads: "This Act may be amended at any subsequent Session of the House of Assembly." I do not attach any weight to these words as taking from this Act its character of a Private Act.

These words merely re-enact, though not so fully, the provisions already enacted in subsection (31) of section 7 of the "Intrepretation Act, 1872."

Section 221 means, in my view, nothing more than that the Act may be amended, but subject to the usual proceedings and formalities attaching to Bills affecting private interests.

I do not think Mr. Orr, as a Private Member, can proceed with this Bill, as it affects private interests, and no notice of the Bill has been given, or petition for its introduction as a Private Bill presented.

7th March, 1908. Journals, p. 129.

The Report on Bill (No. 35) intituled "An Act to amend the 'Municipal Clauses Act'" was further considered.

Mr. Oliver moved, seconded by Mr. Hall,—That the following be added as a new section, as section 8A:—

"8A. Chapter 32 of the Statutes of 1906 is hereby amended by adding the following as a new section, as section 50A:—

"50A. Any municipality may have and exercise all such powers, rights, and privileges relating to water, water rights, and lands incidental thereto, in accordance with and subject to the restrictions and provisions of any Private Act or Acts heretofore passed enabling any such municipality to exercise same within certain territorial limits, whether any such powers, rights, or privileges have been heretofore exercised or not in case no time has been prescribed therefor in such Act, notwithstanding the provisions of any Public or Private Act heretofore passed enabling any company or corporation, other than a municipal corporation, to exercise similar rights, powers, and privileges in whole or in part within the whole or part of such limits of the Act or Acts of incorporation of any such company or corporation contain provisions purporting to preserve the rights of any such municipality as aforesaid, and any such municipality may expropriate any of the lands, waters, or works of any company, subject to observance of the compensation clauses in such Act of such municipality, and in the exercise of such powers, rights, or privileges may utilize same for any of the purposes specified in subsection (12), section 50, of chapter 32, 1906, being the 'Municipal Clauses Act.'"

A point of order was taken by the Honourable Member for Golden, Mr. Parson, that the above section was an amendment to a Private Act, and could not be moved at this stage by a Private Member.

Mr. Speaker EBERTS gave the following ruling:—

On careful perusal of the proposed amendment before me, I am of opinion that it appears only declaratory of the law already existing on the subject-matters with which the section proposes to deal, altering or amending no Private Acts, but merely declaring that if the powers granted by any Private Acts were intended by previous legislation to be in force, such powers heretofore granted are still effective. The motion is in order.

Upon the Order for the second reading of Bill (No. 66) intituled "An Act to amend the 'Fire Companies' Aid Amendment Act, 1871,'" being called,—

Mr. Beaven raised the point of order that the Act sought to be amended by this Bill was a Private Bill, and it was not competent for a Private Member to introduce a Public Bill to amend a Private Bill without complying with the Rules and Orders relative to Private Bills.

Mr. Speaker HIGGINS held the objection well taken, and ruled the Bill out of order.

Upon the Order for the second reading of Bill (No. 66) intituled "An Act to amend the 'Fire Companies' Aid Amendment Act, 1871,'" being called,— 19th March, 1894. Journals, p. 97.

Mr. Beaven raised the point of order: "That the Act sought to be amended by this Bill was a Private Bill, and it was not competent for a Private Member to introduce a Public Bill to amend a Private Bill without complying with the Rules and Orders relative to Private Bills."

Mr. Speaker HIGGINS held the objection well taken, and ruled the Bill out of order.

Important amendments affecting private interests cannot be made in Committee of the Whole, unless authorized after notice, and founded on petition.

Mr. Speaker POOLEY gave the following ruling on the point of order raised yesterday on Bill (No. 61) intituled "An Act to amend the 'Vancouver Incorporation Act, 1900,'" in Committee of the Whole:— 5th March, 1906. Journals, p. 88.

In the Committee of the Whole upon Bill (No. 61), "An Act to amend the Vancouver Incorporation Act, 1900" (a Private Bill), a point of order was taken as to whether an amendment to the Bill which would give the Corporation the power to interfere with private rights could be introduced into the Bill without proper notice having been given by notice or petition.

Dr. Young, the Chairman of the Private Bills Committee, informed the House that the proposed amendment had been overruled in the Private Bills Committee because proper notice of it had not been given as required by the Standing Orders.

No petition has been presented to the House for leave to introduce new provisions.

May, 10th edition, page 778, states: It must be borne in mind that the Committee may not admit clauses or amendments which are not within the order of leave, or which are not authorized by a previous compliance with the Standing Orders, applicable to them, unless the parties have received permission from the House to introduce certain provisions in compliance with petitions for additional provisions.

Rule 72 requires that a notice, clearly and distinctly specifying the nature and object of the application, etc., shall be published in the British Columbia Gazette and in one newspaper published in the district

affected, etc., for six weeks prior to Session, and that copies of such notice shall be sent by the parties printing such notice to the Clerk of the House, to be filed amongst the Records of the Committee on Standing Orders.

It was stated to the House that the House was a paramount authority and could insert any provision in a Private Bill it thought fit. This is in a certain sense correct, but the House is not able to deal with any matter which is not brought before it in conformity with the Rules and Procedure of the House.

I refer to the decision of Mr. Speaker HIGGINS upon a similar point. (*See* page 40.)

I am of opinion that the proposed amendment interferes with private rights, and no notice of this intention having been given by notice or petition as required by the Standing Orders, is not properly before the House and cannot be dealt with. If a practice of this kind were allowed, any Private Bill could be introduced and new clauses affecting private interests inserted without the parties affected having any notice of them.

The Private Bills Committee cannot hear objections to opposed Bills, unless the same are founded on petition presented to the House.

4th March, 1890. Journals, p. 47.

On the 3rd March, the Select Standing Committee on Standing Orders and Private Bills having reported, asking Mr. Speaker's ruling on the point—"Can the Committee hear Counsel, or other person or persons, in opposition to Private Bills without any petition containing objections to the Bill having been presented to the House and referred to the Committee?"

Mr. Speaker HIGGINS: Rule 72 of our Orders points to the necessity of petitions for or against a Bill; and this requirement is not weakened by Rule 87, which provides that "all persons whose interest or property may be affected by any Private Bill shall, when required so to do, appear before the Standing Committee."

May, page 408, says that Committees of the House have no power to consider any matter not referred to them by the House.

By Rule 131, in all unprovided cases the rules, usages, and forms of the House of Commons are to be followed. The practice relating to Private Bills, when opposed, as laid down in *May*, is as follows:—

May, 747 and 757: "No Bill is to be considered as an opposed Bill unless, within ten days after the first reading, a petition is presented against it."

May, 759: "Petitioners will not be heard by the Committee unless their petition be prepared and signed in strict conformity with the Rules and Orders of the House, and have been deposited within the time limited."

May, 760: "No petition will be considered which does not distinctly state the grounds of objection to the Bill, and the petitioners can only be heard on the grounds so stated."

The reasons for this eminently proper rule are obvious. By our Standing Orders, parties who desire to apply for a Private Bill must give six weeks' notice of intention before their petition will be entertained; and if parties in opposition to the measures should be at liberty,

without notice, to go before the Committee and take the friends of the Bill by surprise, a grave injustice would be committed, because of the inability of the persons whose interests are attacked to produce evidence in time to refute the arguments of their opponents.

I can imagine no situation more unjust, harmful, and embarrassing than that of a petitioner before this House taken unawares in the manner I have described.

It has been stated on the floor of this House that it has been customary for the Private Bills Committee to hear opponents to Bills without first requiring a petition against the Bills, but this custom was relaxed twice during the Session of 1888, when a petition against the "Sumas Dyking Act," and a petition of the residents of Sapperton against being incorporated in New Westminster City, were read to the House and referred to the Committee on Private Bills.

I do not call in question the power of the Private Bills Committee (under Rule 87) to require the presence of all persons whose interests may be affected by a measure, after a petition respecting the measure has been read before the House and referred to the Committee, whether the parties so required to appear have signed the petition or not; but no Rule of this House should be construed so as to inflict the grave injustice of inviting and encouraging an attack from an enemy lying in ambush upon a measure which has been advertised in the most public manner for six weeks prior to its coming into the House.

I am of opinion—

1. That the Private Bills Committee cannot hear objections to Private Bills unless such objections have been specified in a petition duly presented to the House in accordance with the authorities cited.

2. That petitioners against Private Bills cannot be heard on grounds other than those specified in their petitions.

Mr. Martin appealed from the decision, and a debate arising, the same was adjourned until the next sitting of the House.

On the 5th March the Chair was sustained on division.

Amalgamation of Private Bills should proceed upon petitions from all parties interested, and considered by the Private Bills Committee.

Upon the Order of the Day being called for the third reading of Bill (No. 19) intituled "An Act to amend the 'Crow's Nest and Kootenay Railway Company Act, 1888,'" Colonel Baker moved that the order be discharged and the Bill recommitted, in order to introduce the following amendments:— 26th March, 1890. Journals, pp. 89, 92, 94.

1. That the preamble of the said Act is hereby amended by adding after the word "river," in the last line thereof, the words "from thence by the west side of Kootenay Lake to the Town of Nelson. Also an alternative line from a point on the west side of the southern end of the Kootenay Lake or River in the neighbourhood of Summit Creek to the Columbia River."

3. Section 2 of the said Act is hereby amended by inserting the words "equip, maintain" between the words "construct" and "and" in the first line thereof; and by adding after the word "river," at the end of the last line thereof, the words "from thence by the west side of

Kootenay Lake to the Town of Nelson. Also an alternative line from a point on the west shore side of the southern end of the Kootenay Lake or River in the neighbourhood of Summit Creek to the Columbia River."

A point of order having arisen, the debate was adjourned until to-morrow.

On the 27th March Mr. Speaker HIGGINS gave his decision on the point of order as follows:—

I am asked to rule whether the principle of a Private Bill, which was brought regularly before the House and subsequently withdrawn, can be revived and embodied in another Private Bill, which also came before the House in regular course, without the sanction and co-operation, by petition or otherwise, of the promotors of the original Bill, and without having been before the Private Bills Committee in its amended form.

The point arose in this way: The Hon. Member for Kootenay, at the third reading stage, gave notice of an amendment to a Bill entitled "An Act to amend the 'Crow's Nest and Kootenay Lake Railway Company's Act, 1888.'" This amendment embodies the principle and powers contained in a Bill introduced during the present Session, entitled "An Act to incorporate the Nelson and Kootenay Lake Railway Company." The order for the second reading of this Bill was discharged by the House, on motion of the Hon. Member for Kootenay. To the amendment exception was taken by the Hon. Senior Member for Victoria City.

After a careful examination, I am of opinion that the authorities mainly relied upon by the Hon. Member for Kootenay have reference to Public and not to Private Bills, and that the Bill, as he proposes to amend it, must come under the head of Amalgamated Bills, page 826, *May*, which says:—

"When powers are applied for to amalgamate with any other company, or to sell or lease the undertaking, or purchase or take or lease another undertaking, or to enter into traffic arrangements, all such particulars are to be specified in the Bill as introduced into Parliament."

It is unnecessary for me to point out that this course has not been adopted, and I have serious doubts as to the power of amalgamation without the consent of both parties having first been obtained. The agreement should be mutual in its character; for surely it will not be contended that one company can amalgamate with another company without the consent of both having first been obtained, any more than that a marriage ceremony can be legally performed without the consent of both parties to the contract having been obtained. The discharge of the order for the second reading of a Private Bill cannot be accepted as evidence of the dissolution of the company that promoted it.

I would advise that a petition from the "Nelson and Kootenay Lake Company," and another from the "Crow's Nest and Kootenay Lake Company," for amalgamation, be first presented, and that the whole matter be then referred to the Private Bills Committee, with instructions to report an amalgamated Bill to the House.

The debate was further adjourned until to-morrow.

On 31st March the motion was withdrawn and the Bill read a third time and passed.

Amendments giving extended powers, not within published notices and not considered by the Standing Committee, cannot be moved in Committee of the Whole.

On 8th April, Bill (No. 42) intituled "An Act to amend the 'Columbia and Kootenay Railway and Navigation Company Act, 1890,'" was committed, with Mr. Sword in the Chair. 11th April, 1892. Journals, p. 109.

A point of order (viz., as to the right to propose amendments to the Bill giving extended powers to the Company, which were not considered by the Railway Committee and not embraced in the published notices of application for the Bill) having arisen, the Committee reported the matter to the Speaker for his decision.

Mr. Speaker HIGGINS: I have examined the petition for the Bill, and find that the amendment proposes to allow the petitioners to carry their line to a point far beyond the limits originally described in the petition.

Rule 76 requires that a notice, clearly and distinctly specifying the nature and object of the application, shall be published in the British Columbia Gazette and in one newspaper in or nearest the district affected in which a newspaper is published. Notices that comported with the petition were published, but they did not embrace the limits proposed to be inserted by the amendments in the Bill.

The Bill was duly reported by the Committee on Standing Orders, and came before the House and reached the Committee of the Whole in the usual way. Up to this point, I think, the proceedings were in accordance with parliamentary practice; but I doubt the power of a Committee of the Whole to make so extensive and sweeping a change in a Bill except on petition, which should reach the House in the customary manner.

May, page 788, says: "If, after the introduction of a Private Bill, any additional provision should be made in the Bill in respect of matters to which the Standing Orders are applicable, a petition for that purpose should be presented to the House, with a printed copy of the proposed clauses annexed. The petition will be referred to the Examiners of Petitions for Private Bills, who are to be given at least two clear days' notice of the day on which it will be examined. * * * After hearing the parties in the same manner as in the case of the original petition on the Bill, the Examiner reports to the House whether the Standing Orders have been complied with or not, or whether any be applicable to the petition for additional provision." (The Committee on Standing Orders and Private Bills stand in the relation of Examiners towards this House.)

Rule No. 93 of this House requires two days' notice of any important amendment to any Private Bill in a Committee of the Whole House; but I am of opinion that that Rule cannot be held to apply to the amendment moved, as Rule 89 requires that the attention of the House shall be specially called to any provision that does not appear to have been contemplated in the notice for the same, as reported upon by the Committee on Standing Orders.

If an amendment of the nature moved can be proposed at this stage of the Bill, what would be the value of the notices or petitions in which

the line was first defined, or how would parties whose interests might be affected by the amendment be made aware of the contemplated extension?

I rule that the amendment can only come before the House in the usual way, by petition.

A Private Bill imposing certain responsibilities upon a Crown officer can be proceeded with without the consent of the Government.

14th April, 1891. Journals, p. 129.

Bill (No. 22) intituled "An Act to incorporate the British Columbia Dyking and Improvement Company."

Objection—"That the Bill gave certain powers to and imposed certain duties upon the Chief Commissioner of Lands and Works, and therefore could not proceed without the consent of the Government."

Mr. Speaker HIGGINS: This Bill is essentially a Private Bill; and the fact that it throws certain responsibilities on the Chief Commissioner of Lands and Works should not operate to its detriment. The Chief Commissioner is mentioned in the "Sumas Dyking Act, 1878," in almost the same words in which he is referred to in this Act. I think it would have been better if the Bill had received the consent of the Chief Commissioner to act as required before having been brought in; but, if he declines to act, the Bill may be amended in Committee of the Whole, so as to place the responsibility on other shoulders.

COMMITTEES (STANDING).

Standing Committees have no power to consider and report on matters not properly before them. The right of petition is unrestricted, subject to the Rules of the House, etc.

Colonel Baker presented the following Report from the Select Standing Committee on Railways:— 23rd February, 1891. Journals, pp. 47, 49.

MR. SPEAKER:

Your Select Standing Committee on Railways desire your ruling upon the following points: "If a Private Bill comes before the Standing Committee on Railways or Private Bills, and is passed by the Committee with or without amendments, and the Report from the Committee is received and adopted by the House, can petitions afterwards be brought before the House against the Bill on its second reading, or on the future stages of the Bill?"

JAMES BAKER,
Chairman.

The Report was received.

Mr. Speaker HIGGINS gave the following decision upon the question referred to in the said report:—

I think that the Private Bills Committee, not having had the petition before it, by reference or otherwise, had not the power to present a Report or to question the right of the House to receive the petition, of the existence of which the Committee could have had no cognizance. There is another and more expeditious mode of procedure, which is to bring the matter up as a question of privilege, when I shall be able to rule as to its admissibility.

On the 24th February the matter was brought up again on a question of privilege, and Mr. Speaker HIGGINS gave the following ruling:—

I am asked to rule on a question of privilege raised by the Hon. Member for East Kootenay upon the following points:—

"If a Private Bill comes before the Standing Committee on Railways or Private Bills, and is passed by the Committee with or without amendments, and the Report from the Committee is received and adopted by the House, can petitions afterwards be brought before the House against the Bill on the second reading, or on the future stages of the Bill?"

Neither *May* nor our own Rules and Orders place any restrictions on the right to petition the House on any subject that is not in violation of the Rules of the House. According to Rule 84 of this House, all petitions for or against a Bill are considered as referred to the Committee on Private Bills; but if the time limit for the consideration of a petition by that Committee shall have expired, it would be an arbitrary and unconstitutional stretch of authority to deny the petitioners the right to approach the House on the subject. The House is entitled to all the light that can be thrown, by petition or otherwise, on a measure upon which it is asked to legislate. In the instance before me, I think the interests of the petitioners occupy a secondary position—the value of the information contained in the petition to the House being the first consideration.

May, 9th edition, page 622, says: "When petitions relate to *any Bill*, or the subject-matter of *any motion* appointed for consideration, a

Member may present them before the debate commences, at any time during the sitting of the House." So jealously is this right of petition guarded in the House of Commons that on one occasion a motion for the Speaker to leave the Chair was withdrawn in order to enable a Member to present a petition, and was repeated as soon as the petition had been received.

I rule that the presentation of a petition to the House, under the circumstances set forth by the Hon. Member for East Kootenay, is in order.

Standing Committees—Powers of.

The Public Accounts Committee has no power to inquire into any matter until it is first referred to them by the House.

General instructions will not be given to the Private Bills Committee to apply to all Bills indiscriminately. The House cannot delegate powers to a Committee barring the exercise of its discretion.

26th January, 1891. Journals, p. 11.

The Order of the Day being called for the resumption of the adjourned debate on the motion of Mr. Beaven (22nd January), "That this House is of opinion that the Committee on Standing Orders and Private Bills, and the Committee on Railways, should see that all Private Bills granting franchises or rights contain sections providing against the employment of Chinese on any work to be undertaken in pursuance of the Bill," Mr. Speaker HIGGINS ruled the motion out of order, and gave the following decision:—

The point of order taken by the Hon. Member for Cowichan (Mr. Croft) is as to the admissibility of the resolution, because it asks the House to relegate to a Select Committee powers that reside exclusively with the House.

Our own Rules of Order being silent on the point (as they are, unfortunately, on many others of equal importance), I have recourse to *May*. Therein I find many instances of *special* instructions given to the Private Bills Committee with certain Bills; but no instance of instructions general in their character, that is, that apply to all Private Bills, beyond those embraced in the Standing Orders.

The resolution before the House is not mandatory in terms; but an expression of opinion, such as the resolution conveys, is always a command, and if passed by the House must be respected as such by the Private Bills Committee.

An anti-Chinese clause which would operate advantageously if inserted in some Bills might prove ruinous to the scheme if inserted in others. A hard-and-fast rule, such as that offered by the Hon. Member for Victoria, to apply to Private Bills that have complied with the Standing Orders, cannot, in my opinion, be left to the Private Bills Committee to insert, but must be at the discretion of the House, as each Bill comes before it for legislation.

I therefore rule that the point is well taken, and that the resolution is not in order.

Bills are referred to Private Bills and Railway Committees on motion. Petitions stand referred without motion, except to the Committee on Mines.

Mr. Speaker HIGGINS: With respect to the point raised by the Hon. Member for East Kootenay, as to whether the Standing Committee on Mines is on the same footing as the Standing Committees on Private Bills and Railways, Rule 84 of our Rules and Orders provides that Private Bills shall, on motion, be referred to the Committee on Private Bills, or to some other Committee of the same character; and all petitions before the House for or against the Bill are considered as referred to such Committee. The procedure with regard to Mineral Bills is the same, with this exception: that all petitions for or against a Bill dealing with mines or mining can only reach the Standing Committee on Mines on motion. 30th March, 1892. Journals, p. 81.

The Committee may be instructed to reconsider the preamble of a Private Bill, but not to pass it.

Mr. Pooley presented the Sixth Report from the Railway Committee, as follows:— 15th August, 1900. Journals, p. 135.

LEGISLATIVE COMMITTEE ROOM,
August 15th, 1900.

MR. SPEAKER:

Your Select Standing Committee on Railways beg leave to report as follows:—

The preamble not proved of Bill (No. 16) intituled "An Act to incorporate the Lake Bennett Railway," on the grounds that the expediency of the said railway has not been satisfactorily shown, and that it is against the interests of this Province to grant the charter prayed for at the present time.

All of which is respectfully submitted.

CHAS. E. POOLEY,
Chairman.

Mr. Pooley moved—That the Report be received.

Mr. Stables moved in amendment, seconded by Mr. McInnes,—

That all the words after "That" be struck out, and the following substituted: "the Report be not received, but be referred back to the Railway Committee, with instructions to pass the preamble."

The motion was ruled out of order by Mr. Speaker BOOTH, on the ground that, while the Committee might be instructed to reconsider the preamble of the Bill, it was not proper to direct the Committee to pass the preamble.

Notice to be given of motion to adopt report of Committee.

Mr. T. Davie presented the Eleventh Report from the Private Bills Committee, reporting that the Standing Orders, with regard to the Port Moody water privileges Bill of J. A. Webster and others, had not been complied with, and recommending the suspension of Rule 76. 28th January, 1884. Journals, p. 45.

Report received.

Mr. T. Davie moved the adoption of the Report.

Mr. Speaker MARA ruled the motion out of order, notice of motion not having been given.

7th February, 1908. Journals, p. 38.

The Standing Committees have power to make all necessary amendments to Bills before them.

Mr. Speaker EBERTS, in reply to a request for a ruling with reference to the powers of Standing Committees, gave as his opinion that the Standing Committees of the House had power to make all necessary amendments to Bills referred to them, and report same, as amended, to the House.

COMMITTEES (SELECT).

A Select Committee cannot do any act not authorized by the resolution creating it.

Colonel Baker presented a Report from the Select Committee appointed to inquire into the charges brought by Honourable T. B. Humphreys against Honourable R. Dunsmuir, President of the Council. 24th February, 1888. Journals, p. 34.

Colonel Baker moved—That the Report be received.

A point of order was raised by Mr. Beaven, viz.: "That the Committee could not recommend the House to expunge any resolution from the Votes and Proceedings of this House."

Mr. Speaker POOLEY reserved his decision, and on the 27th February (Journals, page 37) decided that the Committee had only power to report their deliberations to the House and could not make any recommendations.

The resolution creating the Committee defines its powers as follows:—

"Be it therefore Resolved, That a Select Committee be appointed to inquire into the statements of the said Honourable T. B. Humphreys, as contained in the said proposed resolution, and to report their deliberations and the evidence taken by them to this House, with power to call for persons, books, and papers."

The Report is therefore out of order.

A Select Committee can only report once, unless power is given to it to report from time to time.

Mr. Turner, as Chairman of the Select Committee appointed to inquire into and report upon the conduct of the last general election in the City of Victoria, asked whether the Committee, after having already reported to the House, could present another report. 11th March, 1887. Journals, p. 44.

Mr. Speaker POOLEY: The Committee not being empowered to report from time to time, its proceedings are considered as ended. (*See May*, page 430.)

The Report of a Select Committee cannot be discussed until the evidence reported has been printed and laid before the House.

Mr. Cunningham moved, seconded by Mr. Ladner,— 18th April, 1890. Journals, p. 120.

That the Report of the Select Committee on the North Arm, Fraser River, Bridges be adopted.

The Hon. Mr. Davie raised the point of order, viz.: "That it was not in order to discuss the Report of a Select Committee until the evidence submitted with the Report was printed and laid before the House."

Mr. Speaker HIGGINS ruled against the point of order.

On appeal, the Chair was not sustained.

Reports must be presented by the Chairman. Minority Report not received.

29th January, 1884. Journals, p. 45.

Mr. Beaven presented a Minority Report from the Public Accounts Committee, and moved that it be received.

Mr. Speaker MARA ruled the motion out of order, the Committee not having reported, and the Report not being presented by the Chairman of the Committee.

All Reports to be presented by Chairman. Minority Reports cannot be received.

17th February; 1899. Journals, p. 61.

Mr. Turner rose to present a Minority Report from the Public Accounts Committee.

Objection being taken, Mr. Speaker FORSTER ruled that the Report could not be received, and that Reports from Committees can only be presented by the Chairman.

(*See May*, 10th edition, 394, 376.)

Minority Report. The minority cannot report. Their conclusion not being the decision of the Committee.

8th March, 1906. Journals, p. 106.

The House resumed the adjourned debate on the motion "to receive the Report from the Select Committee appointed to inquire into all matters pertaining to the acquisition, or attempted acquisition, by the Grand Trunk Pacific Railway Company, or by any other person or persons or bodies corporate, of Crown lands in the vicinity of Tucks Inlet, Kaien Island or other islands, and on the Mainland in the vicinity of Kaien Island."

Mr. Speaker POOLEY gave the following ruling on a proposed amendment to the Resolution moved by Mr. J. A. Macdonald:—

On the 31st day of January, 1906, a Committee consisting of five Members—namely, Messrs. Garden, Ross, Young, J. A. Macdonald, and Munro, subsequently, on motion, changed to Paterson—were appointed to inquire into all matters pertaining to the acquisition, or attempted acquisition, by the Grand Trunk Pacific Railway Company, or by any other person or persons or bodies corporate, of Crown lands in the vicinity of Tucks Inlet, Kaien Island or other islands, and on the Mainland in the vicinity of Kaien Island, with power to summon witnesses, call for papers, documents, letters, telegrams, and records, and to take evidence under oath, and to procure the printing of said evidence from day to day, and report said evidence from time to time to the House, together with their findings on the same.

On Wednesday, the 7th day of March, the Chairman of the Committee reported the evidence and the findings of the Committee thereon to the House.

Mr. Garden, after the reading of the Report, moved "That the Report be received"; and,

Mr. J. A. Macdonald moved in amendment, seconded by Mr. T. W. Paterson (both members of the Committee appointed to inquire into all matters pertaining to the acquisition, or attempted acquisition, by the Grand Trunk Pacific Railway Company, or by any other person or

persons or bodies corporate, of Crown lands in the vicinity of Tucks Inlet, Kaien Island or other islands, and on the Mainland in the vicinity of Kaien Island), "to strike out all the words of the motion after the first word 'That,' and to substitute the following words: 'the Report be referred back to the Committee with instructions to append to the said Report the following Minority Report as an appendix.'" A Minority Report (so-called) was attached to the motion.

A point of order has been raised as to whether this amendment is in order, and whether it is competent to move an amendment to the motion "That the Report be received."

The motion, in my opinion, is open to amendment.

The question then arises, is this amendment in order?

The motion asks that "the Report be referred back to the Committee with instructions to append to the said Report the following Minority Report as an appendix."

The House, so far, knows nothing of a Minority Report, the only Report the House has any knowledge of is the Report of the Committee presented by the Chairman. By the decision of Mr. Speaker MARA, page 50 of the Speakers' Decisions, and the decision of Mr. Speaker FORSTER on page 50 of the Speakers' Decisions, a Report can only be presented by the Chairman.

I cannot find any mention of the presentation of a Minority Report in *May's* Parliamentary Practice.

"As the conclusion of a minority is not the decision of the Committee, a minority cannot, according to Parliamentary law, make a report; and such a report is unknown to English practice. It is also contrary to English custom to allow a report to be accompanied by any counter-statement or protest from the minority."—(Speakers' Decisions of Quebec, folio 781. Citing *Bourinot* 548, 3rd edition; *Palgrave*, edition of 1884, page 87; *Johnson's* Appendix, page 21). This decision is based on English authority.

This House is asked to deal with a Minority Report of which it has no knowledge, it not having been presented by the Chairman of the Committee, and if this practice of presenting Minority Reports were allowed it would enable every member of a Committee to present his individual report, and the object of the Legislature to obtain a report of the Committee would be defeated. I declare the amendment out of order.

The Report was received.

COMMITTEES (OF THE WHOLE).

Instruction to Committee of the Whole.

11th March, 1878. Journals, pp. 38, 40.

Motion to add on second reading of Bill to amend the Constitution Act the words "and that provision be inserted in the Bill that it shall not come into operation until the consent of the people has been obtained to the proposed increased representation."

Ruled out of order by Mr. Speaker TRIMBLE.

Motion to empower a Committee of the Whole to do an act already within its powers, irregular.

17th December, 1883. Journals, p. 22.

On the Order of the Day being read for the House to go into Committee on Bill (No. 2) intituled "An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province,"—

Mr. Beaven moved—

That the Committee be empowered to insert the necessary provision in the Bill to prevent the employment of Chinese in the construction of the public works referred to therein.

Mr. Speaker MARA ruled the motion out of order, as the Committee already had the power to make the proposed alterations if it thought fit.

Proceedings in Committee.

8th March, 1909. Journals, p. 114.

Bill (No. 9) intituled "An Act to amend the 'Provincial Elections Act'" was again committed.

The Chairman reported to Mr. Speaker that a point of order had arisen in Committee, viz.: A motion for the Committee to rise and report progress had been moved and negatived, and after some further debate on the same clause on the Bill, the same motion had been repeated, and, on objection taken, he had ruled the motion to be in order. From the Chairman's ruling an appeal had been taken to the Chair.

Mr. Speaker EBERTS decided the motion to be out of order. (*See May*, 11th edition, page 380.)

The Chair was sustained on appeal.

"Previous question" cannot be moved in. Motions in abuse of Rules. Acting and temporary Chairman without motion. Repetition of same motion.

9th March, 1909. Journals, p. 114.

On a point of order reported from Committee, Mr. Speaker EBERTS gave the following rulings:—

During prolonged sittings of a Committee it has been customary for the Chairman to withdraw, and to be replaced by another Member without any question. (*May*, 11th edition, 381.)

If the Chairman of the Committee is of opinion that any motion is an abuse of the Rules of the House, he may put forthwith the question thereon from the Chair. (*May*, 11th edition, 316; 157, C. J., 326; 160, C. J., 269.

The "previous question" cannot be moved in Committee of the Whole. (*May*, 11th edition, 284.)

Report from, can be considered same day if it contains no public charge.

The following Resolution was reported from the Committee of the Whole:— 20th February, 1900. Journals, p. 71.

Resolved, That the Committee rise and report to the House Bill (No. 54) intituled "An Act for the Redistribution of British Columbia into Electoral Districts, and to amend the 'Provincial Elections Act.'"

The Hon. Mr. Semlin moved the adoption of the Report.

Mr. Higgins objected to the motion, on the ground that the Report could not be considered on the same day on which it was reported from the Committee of the Whole, as the Bill reported created a charge upon the people.

Mr. Speaker FORSTER: The motion is in order. The Bill does not create a charge upon the people. (*May*, 370, 528, and 529.)

The Chair was sustained on appeal.

CROWN LANDS, ETC.

A petition for a Private Bill to obtain a Crown grant to certain Crown lands cannot be introduced.

6th April, 1888. Journals, pp. 75, 79.

The petition from Samuel Greer for leave to introduce a Private Bill (relief of Samuel Greer) was ruled out of order.

Mr. Bole stated he wished to appeal from the decision to the House.

Mr. Speaker POOLEY stated he would give a written decision, upon which the appeal could be taken.

On the 10th April, Mr. Speaker POOLEY gave the following decision:—

The petition of Samuel Greer alleges a claim to part of Lot 526, Group 1, New Westminster District, and alleges that under an agreement dated the 13th day of February, 1886, between the Government of British Columbia and the Canadian Pacific Railway Company, the Government issued a Crown grant of said Lot 526, Group 1, in favour of Donald A. Smith and Richard B. Angus;

And alleges continuous occupation of the said land from the month of June, 1884;

And prays that the House will be pleased to grant leave for the introduction of a Bill for his relief, and to enable him to obtain a Crown grant of the said piece of land.

The only ground upon which the petitioner could ask for a Crown grant would be on the assumption that the fee of the land was in the Crown; and it is laid down in *May* (8th edition, folio 566) that no petition to the Commons, praying directly or indirectly for the relinquishing of any claim of the Crown, will be received unless the same be recommended by the Crown.

The petition implies the relinquishment of any claim the Crown might have in the lands, and as the same has not been recommended by the Crown I must rule it out of order.

The Chair was sustained on appeal.

A Bill proposing to deal with Crown lands held in trust for charitable purposes must be introduced as a Private Bill or by Message.

20th February, 1890. Journals, p. 29.

Mr. Speaker HIGGINS gave his reserved decision on the point of order raised yesterday by Mr. Beaven on the motion for the first reading of Bill No. 22, which was ordered to be placed on the Journals.

The decision is as follows:—

The Bill (No. 22) intituled "An Act to enable the Trustees of the Royal Columbian Hospital, New Westminster, to sell certain Lands and to provide for the Appropriation of the Proceeds thereof" proposes to amend or continue an Act passed at the last Session of this House, which Act was introduced by Message from the Lieutenant-Governor.

May, 8th edition, page 713, divides Private Bills into two classes. To the first of these classes is relegated Bills affecting Crown, church, corporation property, or property held in trust for public or charitable purposes, and Bills for continuing or amending an Act passed for any

of the purposes included in this or the second class, when no further work than such as was authorized by a former Act is proposed to be made.

The Bill before me seeks to enable the trustees of the Royal Columbian Hospital to sell certain Crown lands, held in trust for charitable purposes, and to provide for the appropriation of the proceeds thereof.

Moreover, it proposes to amend or extend the powers conferred by an Act of last Session, which Act was introduced by a member of the Government, upon the authority of a Message from the Lieutenant-Governor.

The Act of last Session, to authorize and facilitate the sale of the site of the Royal Hospital, having a similar scope to this Bill, was also introduced by Message from the Lieutenant-Governor.

In its present form, I am of opinion that the Bill must be ruled out of order. In other words, it must come in as a Private Bill, or be introduced by Message from the Lieutenant-Governor.

Bill to assess Dominion lands or deal with Crown lands for dyking and drainage purposes ruled out of order.

Mr. Speaker HIGGINS gave the following decision relative to Bill No. 51:— 27th March, 1893. Journals, pp. 91, 128.

A Bill introduced by the Hon. Member for New Westminster District (Mr. Kitchen), intituled "An Act respecting the Drainage, Dyking, and Irrigation of Lands," is, in my opinion, beyond the powers of this Legislature, inasmuch as it proposes to deal with "lands vested in the Dominion Government"—section 15, subsections (*b*) and (*c*). Dominion lands are exempt from taxation until the title shall have passed.

Clauses of the Bill that do not deal with Dominion lands are admissible, as legislation in the direction has already been permitted by the House, and the Bill, save in the sections above quoted, is a compilation or consolidation of existing Acts.

But it is impossible to separate one part of the Bill from another—to declare one part to be good and the other bad. The Bill, by reason of subsections (*b*) and (*c*), falls, and must be ruled out.

The Order for the second reading of Bill (No. 51) intituled "An Act to consolidate and amend the 'Drainage, Dyking, and Irrigation Act' and amending Acts" was then discharged.

The Bill was amended and again introduced as Bill (No. 85), and on 11th April Mr. Kitchen moved the second reading.

Mr. Speaker ruled the Bill out of order on the ground that it dealt with Crown lands.

Clauses granting exemptions from taxation and right-of-way over Crown lands cannot be inserted in Bills until the same are recommended by Message.

The Hon. the Attorney-General asked if clause 17 of Bill (No. 50) intituled "An Act to incorporate the Liverpool and Canoe Pass Railway Company" was in order. 19th March, 1891. Journals, p. 82.

Mr. Speaker HIGGINS: The clause referred to proposes to exempt the railway and appurtenances, and the capital stock of the Company, from municipal and Provincial taxation for a period of seven years.

I am of opinion that the clause conflicts with section 54 of the "British North America Act, 1867," and with Rule 117 of the Rules and Orders of this House. If the provisions of that section and that Rule are followed, the section must either be brought down by Message from the Lieutenant-Governor, or be reported from the Committee of the Whole.

In support of this ruling, I refer the House to the Journals of this House, Session 1880, page 31, where the assent of the Crown to certain Private Bills for a grant of right-of-way through Crown lands and water rights only was deemed necessary before the Bills passed to a third reading. If that procedure was necessary in that case, how much more necessary is it in this case?

Abstract resolution containing directions to the Government as to the conveyance of certain reserves, being Crown lands, ruled out of order.

18th February, 1890.
*Journals, pp. 25, 34.

Mr. Duck moved, seconded by Mr. Anderson,—

That whereas, by the Terms of Union, the management of the Indian reserves of the Province was assumed by the Dominion Government, in trust for the use and benefit of the Indians:

And whereas the tribe of Indians known as the Songish Tribe, living on the reserve situate on the west side of the Victoria Harbour, are few in number:

And whereas their close proximity to the City of Victoria is undesirable, and tends to retard the growth and prosperity of the said city, and it is expedient that the said tribe should be removed to a more suitable locality, and the control of the said reserve be resumed by the Provincial Government:

Be it therefore Resolved, That a respectful Address be presented to His Honour the Lieutenant-Governor, praying His Honour to take whatever steps he may deem necessary to accomplish the above object.

Mr. Beaven moved in amendment, seconded by Mr. Ladner,—

To strike out all the words after "whereas," on the first line, down to the end of the motion, and insert—

"by section 13 of the Terms of Union, the charge of the Indians and the trusteeship and management of the lands reserved for their use and benefit was assumed by the Dominion Government:

"And whereas the fee of the land so reserved remains in the Province, and the disposal of the property becomes subject to the control of the Provincial Legislature, as soon as the use for which it was reserved has terminated:

"And whereas Section 119, Esquimalt District, Victoria Harbour (Songhees Indian Reservation), is one of such reserves, and its close proximity to the City of Victoria renders it an unsuitable place for the residence of the Indians, and it is expedient and in the interest of the few remaining members of the tribe that a more suitable home should be provided for them:

"And whereas the growth and extension of the city westward is retarded by the land remaining practically useless and unproductive:

"Be it therefore Resolved, That a respectful Address be presented to His Honour the Lieutenant-Governor, requesting him to take into con-

sideration the expediency of taking such steps as will result in the removal of the Indians of the Songhees Tribe from Section 119, Esquimalt District, Victoria Harbour, and the securing of a more suitable home for them on land which they can cultivate, and which they may regard as their home for life, and in the subsequent conveyance to the Corporation of the City of Victoria of the fee of the said Section 119, Esquimalt District, with power to the said Corporation to extend its limits so as to include the above section, and to survey the land into streets and into blocks and lots, and to dedicate such streets to the use of the public, and to reserve lots for the use of the Corporation, and sell such other lots as the said Corporation may desire, using the net proceeds therefrom for the purposes and benefit of the said Corporation."

A point of order arising, the debate was adjourned.

On 24th February, 1890, the adjourned debate on Mr. Duck's motion of 18th February, *re* Songish Indian Reserve, was resumed.

The amendment moved by Mr. Beaven was ruled out of order, as exceeding the limits of an abstract resolution, and being, if passed, a direction to the Government as to the form and contents of the deed of conveyance from the Crown to the City of Victoria of said reserve.

Original motion put and carried.

Bill restricting powers of the Government in dealing with Crown lands ruled out.

Mr. Brown moved—That Bill (No. 41) intituled "An Act to make certain Provisions respecting Grants in aid of Private Enterprises" be read a second time now. 23rd August, 1900. Journals, p. 165.

Mr. McPhillips raised the point of order that the Bill could not be introduced by a Private Member, as it proposed to interfere with the administration of Crown lands, and to put restrictions and limitations on the powers of the Government in dealing with the interests of the Crown, in aiding private enterprises.

Mr. Speaker BOOTH held the point of order well taken, and ruled the Bill out of order.

On the motion for the second reading of Bill (No. 64) intituled "An Act to amend the 'Placer Mining Act,'"— 30th August, 1900. Journals, p. 186.

Mr. Speaker BOOTH ruled the Bill out of order, on the ground that it was not competent for a Private Member to introduce legislation dealing with the lands of the Crown.

Amendments in Committee. An amendment to a Bill providing for free grants of land should come down by Message. Amendments must be within the scope of the Bill as read a second time.

Bill (No. 109) intituled "An Act to amend the 'Land Act'" was read a second time and committed. 10th May, 1901. Journals, p. 143.

The Chairman reported that a point of order had arisen in Committee, and that an appeal had been taken from the ruling of the Chair.

In Committee, the Hon. Mr. Wells moved to add the following as a new section:—

"It shall be lawful for the Lieutenant-Governor in Council to make free grants of so much of the unappropriated Crown lands of the Province as may be deemed necessary, to such persons or corporations entitled to hold the same, in trust, as sites for a church or place for Divine worship, or for the use of agricultural associations for exhibition and other purposes of a like nature."

Mr. Martin raised the point of order that the clause was not within the scope of the Bill as read a second time.

The Chairman ruled the motion in order.

Mr. Speaker BOOTH: I cannot support the ruling of the Chair. Amendments in Committee must be relevant to and consistent with the context of the Bill as read a second time.

The Bill, as read a second time, deals only with the "sale of Crown lands," "small holdings," and "leases," while the proposed new clause relates to "*free grants.*"

I think there is a more serious objection to the clause. It is one that, if introduced at all, should come down to the House by Message.

(*See* Speakers' Decisions, pages 24 and 26.)

Motion in Committee to add clause to Bill affecting administration of Crown lands ruled out.

14th August, 1900. Journals, p. 133.

Bill (No. 12) intituled "An Act to incorporate the Vancouver and Westminster Railway Company" was again committed.

The Chairman reported that a point of order had arisen in the Committee, which he was instructed to refer to the Speaker to decide. It was proposed by Mr. Curtis to add to the Bill the following clause:—

"(*b.*) The purchase, lease, or right to use any lands belonging to the Province shall, notwithstanding anything contained in, or required or permitted by, any other Act to the contrary, be valid only upon a contract being entered into by the Company with the Provincial Government, containing such terms and conditions as the Lieutenant-Governor in Council may see fit to impose, and the same to be signed on behalf of the Provincial Government by such member or members of the Executive Council of the Province as the Lieutenant-Governor in Council may designate."

Objection was taken by Mr. McPhillips that the clause interfered with the prerogatives of the Crown and was out of order.

Mr. Speaker BOOTH ruled that the clause interfered with the administration of the lands of the Crown, and dictated conditions as to the administration of the same. That it was not competent for a Private Member to interfere with the prerogatives of the Crown in this manner. That he would follow the decision of Mr. Speaker POOLEY, Speakers' Decisions, page 132, and the decision of Mr. Speaker HIGGINS at page 55, and rule the clause out of order.

Mr. Smith moved—That Bill (No. 44) intituled "An Act to amend the 'Mineral Act'" be read a second time now. 15th April, 1898. Journals, p. 118.

Mr. Speaker BOOTH: This Bill deals with revenue and Crown lands. In section 4 an additional recording fee of $10 is imposed, and section 5 deals with Crown grants. The Bill cannot be introduced by a Private Member. (*See* Speakers' Decisions, page 132.)

Crown lands and taxation, Bills affecting.

Mr. Speaker HIGGINS ruled that Bill (No. 67) intituled "An Act to amend 'An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province'" was out of order, and could not be proceeded with as it interfered with taxation. 27th March, 1893. Journals, p. 91.

The Order for the second reading of the Bill was then discharged.

On the motion to adopt the Report on Bill (No. 16) intituled "An Act to ratify an Order in Council approved on the Eighteenth Day of March, 1902, rescinding certain Provisions of an Order in Council approved on the Fourth Day of September, 1901, respecting the Land Grant of the Columbia and Western Railway Company"— 21st April, 1903. Journals, p. 31.

Mr. Gilmour moved in amendment, seconded by Mr. Oliver, to insert as section 4 the following:—

"4. The lands herein referred to, save and except as to the timber thereon, shall not be sold, leased, or otherwise alienated, except by an Act of the Legislature of British Columbia."

Mr. Neill asked if it was in order for a Private Member to move to insert a clause interfering with the administration of Crown lands and restricting the powers of the Government in dealing with the same.

Mr. Speaker POOLEY ruled the amendment out of order, following a decision of Mr. Speaker BOOTH on 23rd August, 1900. (*See* page 57.)

Report adopted.

Bill read a third time and passed.

The Report on Bill (No. 17) intituled "An Act to secure to certain Pioneer Settlers within the Esquimalt and Nanaimo Railway Land Belt their Undersurface Rights" was considered. 28th April, 1903. Journals, p. 44.

Mr. Hawthornthwaite moved to strike out section 3, and substitute the following section in lieu thereof:—

"3. It shall be lawful for the Lieutenant-Governor in Council to grant to any settler, or his legal representative, free of charge, a Crown grant in fee-simple in possession of lands within the railway land belt taken up, or settled upon, by such settler, or of all interest therein not already Crown-granted to him (save and except as to gold and silver in either case)."

Ruled out of order, as being an interference with the prerogative of the Crown in dealing with and in the management of Crown lands.

Crown lands and interests. Escheats. A Bill dealing with the interests of the Crown in escheated property should be introduced by Message.

3rd April, 1907. Journals, p. 49. Order called for the House to again consider Bill (No. 18) intituled "An Act to revive and continue the Existence of certain Companies" in Committee of the Whole.

Mr. Speaker gave the following ruling:—

I am asked to rule as to whether Bill No. 18 now before the House should be brought in by Message in view of the principle that it purports to deal with lands and personalty which it is alleged are the property of the Crown by reason of the demise of joint-stock companies owning same prior to the expiration of their term of existence.

At common law, process in the nature of an action at law must have been completed before land could properly be considered as belonging to the Crown under a claim of escheat. This process is called in general terms "Inquest of Office," sometimes "Office Found," being a course of legal proceedings carried on in the name of the Crown under claim that the land in question is escheated for want of heirs. The "Escheat Act, 1898," has altered the common law rule by dispensing with the necessity for inquisition, but not removing entirely the necessity of action for the recovery of the lands. The Lieutenant-Governor in Council is empowered by the "Escheat Act, 1898," to waive escheat so as to vest the lands in the persons who would have been entitled thereto but for the forfeiture, and of transferring land or personal property after escheat to persons having a legal or moral claim thereto. In case a joint-stock company's life expires by effluxion of time it is difficult to determine who would be the persons in whom the title would vest, even if the Lieutenant-Governor in Council waived forfeiture or escheat. The power of transference to persons having a legal or moral claim not having been exercised by the Lieutenant-Governor in Council, the Act in question proposes to deal with the land and personal property, and it is apparent that the right of the Crown is affected. The old common law distinction as to the forfeiture of real and personal property, whereby realty went to the mesne lord and personalty to the Crown, does not affect the present question, inasmuch as forfeiture now accrues in respect of all classes of property to the Crown.

Under the circumstances, as the right of the Crown to the property in question does not appear to have been waived or transferred, I think it safer that the Bill should be introduced by Message, and so accordingly decide.

A Bill to amend a Government Bill, introduced by a Private Member, extending time for obtaining Crown grants ruled out of order.

1st March, 1905. Journals, p. 80. On the second reading of Bill (No. 38) intituled "An Act to amend the 'Vancouver Island Settlers' Rights Act, 1904,'" the Hon. Mr. McBride objected to the Bill as affecting Crown lands, and one that it was not competent for a Private Member to introduce.

Mr. Speaker POOLEY: The Bill sought to be amended was introduced by Message on 29th January, 1904.

Section 3 of the said Bill gave certain persons the right, within one year from 10th February, 1904, to a grant of Crown lands under certain conditions.

The said Bill further declared that the rights of such persons shall be asserted and defended at the expense of the Crown.

The time within which the said persons could apply for a Crown grant has now expired.

The Bill now objected to proposes to extend the time within which these Crown grants can be obtained and defended at the expense of the Crown, which will lead to a heavy expenditure of public money.

The Bill is out of order, and I must so rule.

But see contra.

On the second reading of Bill (No. 62) intituled "An Act to amend the 'Vancouver Island Settlers' Rights Act, 1904,'" Mr. Speaker EBERTS gave the following ruling on the point of order raised thereon:— 7th March, 1908. Journals, p. 130.

On motion to read this Bill a second time a point of order was raised, that it dealt with the prerogative right of the Crown as to disposition of Crown lands, and it was not competent for a Private Member to introduce the bill, except by consent of the Executive.

In the short time at my disposal I have examined the principal Act, and I find in the preamble a key to the interpretation of same. It is therein declared that a certain class of settlers are entitled to peaceable and absolute possession of certain lands, and entitled thereto in fee-simple, and the Statute having declared those rights as a matter of principle requires the persons named (as a matter of detail) to apply for grants within a certain period. (The Bill in question proposes to extend the period within which a person whom the Act declares entitled to a grant may apply therefor.) This is, in my opinion, a matter of procedure by the applicant, as distinguished from the principle of the Act. Under the circumstances, I hold that the motion for the second reading is in order.

A motion dictating policy affecting revenue and administration of Crown lands cannot be moved by Private Member without consent of the Government.

Mr. Stables moved, seconded by Mr. Gilmour,— 10th April, 1902. Journals, p. 56.

That in all contracts, leases, and concessions of whatsoever kind entered into, issued, or made by the Government, or on behalf of the Government, provision be made that no Chinese or Japanese shall be employed in connection therewith.

Objection was taken that the motion was out of order, on the ground that it affected the policy of the Government and, if carried, would interfere with all contracts, leases, etc., made by the Government.

Mr. Speaker POOLEY: The Resolution is out of order, as dictating a policy to the Government on hard-and-fast lines, and if passed would so tie their hands with regard to contracts, leases, and concessions as to affect the revenue of the Province to be derived therefrom. 14th April, 1902. Journals, p. 62.

The Government consented to the Resolution being discussed.

(Followed on 25th April, 1902, page 77.)

Motion by Private Member affecting administration of mining claims ruled out of order.

23rd January, 1900. Journals, p. 22.

Mr. Deane moved, seconded by Mr. Kellie,—

That whereas among the volunteers who have gone or may go to *South* Africa to serve with Her Majesty's Forces during the present war there are some persons who are the holders of claims under the provisions of the "Mineral Act":

And whereas it is desirable that the said claims should be protected during the absence from British Columbia of said persons, while serving Her Majesty as aforesaid:

Be it therefore Resolved, That the mineral claims of any British Columbia volunteer serving Her Majesty in the present war be not open to location by any person during the absence of such volunteer upon said service, nor for a period of twelve months after the close of said war.

Ruled out of order.

The administration of Crown lands cannot be delegated to Private Members. Motion by Private Member with consent of the Government to consider Crown-grant system ruled out of order.

16th March, 1898. Journals, p. 61.

Mr. Adams moved, seconded by Mr. Smith,—

Whereas it is a general complaint of those who are endeavoring to obtain money for the development of the placer mines of the Province that it is not possible to obtain Crown grants of such lands:

Therefore, be it Resolved, That this House take into consideration the advisability of disposing of the placer lands of the Province under the Crown-grant system.

The Provincial Secretary stated that the Government consented to the moving of the Resolution.

Mr. Speaker BOOTH ruled the motion out of order, the administration of Crown lands being a matter of policy for which the Ministers of the Crown alone are responsible to the House.

A motion as to how Indian reserves should be administered cannot be moved.

14th March, 1894. Journals, p. 86.

Mr. Watt moved, seconded by Mr. Kellie,—

Whereas many of the Indian reservations throughout the Province, especially in the Interior, comprise vast areas of the best agricultural lands, which are either altogether uncultivated by the Indians, or if cultivated, then in many cases in such a slovenly way as to injure rather than improve the land, seeding it as well as adjoining property with noxious weeds:

And whereas in most cases a much smaller area would suffice for the wants of the Indians, and the surplus, if thrown open for settlement by whites, would be of permanent advantage to the Province:

Therefore Resolved, That in the opinion of this House steps should be at once taken to acquire back the interest of the tribes in those reserva-

tions, or portions thereof, suitable for agriculture, on equitable terms of purchase or exchange, and that thereupon such reacquired lands be thrown open for settlement on such terms as may be agreed upon.

Mr. Speaker HIGGINS ruled the motion out of order under Rule 118.

Taxation. Motion for Select Committee to consider settlement of Crown lands on single-tax system. A Private Member cannot initiate legislation dealing with Crown lands or with the taxation or administration thereof. The House cannot delegate such powers to a Select Committee.

Mr. Watt moved, seconded by Mr. Brown,— 1st March, 1894. Journals, p. 71.

That a Select Committee, consisting of Messrs. Booth, Croft, Brown, Forster, and the mover, be appointed to take into consideration the subject of the settlement of the Provincial lands on the single-tax or other equitable system of permanent but not freehold tenure, without taxation of improvements, in order to the encouragement of the settlement of such lands, and to report to the House, with any recommendations as to legislation which shall tend to the more rapid occupation and tillage of the agricultural lands of the Province.

Acting-Speaker, Mr. MARTIN, ruled the motion out of order, on the following grounds:—

No Private Member can move a Resolution or initiate legislation dealing with Crown lands, or with the taxation or administration of such lands. Nor can the House authorize, or delegate authority to, a Select Committee to inquire into the taxation of and management of Crown lands, with a view to recommending legislation affecting the taxes on, or the administration of, such lands. (*See May*, 10th edition, pages 532, 533; and Speakers' Decisions, pages 55 and 132.)

A Select Committee exceeds its powers in reporting that a claimant had a just claim to Crown lands.

On the motion to adopt the Report of the Select Committee appointed to inquire into the claims of certain applicants to purchase land at the mouth of Carpenter Creek and at the head of Slocan Lake, West Kootenay District, a point of order arose as to whether the Report was in order. 14th March, 1893. Journals, p. 58.

Mr. Speaker HIGGINS ruled thereon as follows:—

I think that the Committee have exceeded their powers in reporting "that Angus McGillivary has a just claim to the land in question."

The Committee might have recommended that the claim of Angus McGillivary be taken into the favourable consideration of the Government. Such a report would have been in harmony with the reports of Committees in similar cases during the past few years. I refer particularly to reports in the Journals of this House, Session 1888, relative to "Claims to Granville Town Lots," "Claims of Rev. George Ditcham," "Claims of Donald McKenzie," "Claims of Samuel Greer," "Claims of L. and E. Gold," and "Claims of James Morrison," all of which contented themselves with recommending the Government to favourably consider the claims of the respective parties. The Report under con-

sideration does not confine itself to a recommendation. It is mandatory in tone and effect; since its adoption would leave the Government no alternative but to convey the land to the claimant, or place itself in a position antagonistic to the House.

I think that the Committee have assumed a power that was not conferred or contemplated by the House when the Committee was appointed; and I so rule.

A motion declaring rights to Crown grants and an implied direction to the Government to issue such grants cannot be moved.

7th May, 1901. Journals, p. 127.

Mr. McInnes moved, seconded by Mr. Gilmour,—

Whereas certain persons who settled upon Government lands located within the present Esquimalt and Nanaimo Railway Land Belt have been denied the coal under their lands:

And whereas these settlers have appealed frequently to the Dominion and Provincial Governments for redress:

And whereas the Dominion Government in 1897 issued a Commission to T. G. Rothwell, Esq., of Ottawa, to inquire fully into the matter, and the said T. G. Rothwell, after a full inquiry, at which all persons interested were represented by counsel, reported that the claims of the said settlers were just, and should be righted by the Provincial Government:

And whereas the Provincial Government issued a Commission to Hon. Eli Harrison, Jr., in 1900, to inquire into the matter, and the said Hon. Eli Harrison, after inquiry into the matter, but without the aid of any counsel, reported against the claims of the settlers:

And whereas the claims of the said settlers are just, and the Provincial Government should forthwith issue to them Crown grants to the coal and base minerals under their lands:

Be it therefore Resolved, That in the opinion of this House the Government should take immediate steps to grant the said settlers their rights.

Mr. Speaker BOOTH: I must rule this motion out of order. It would, if passed, amount to a declaration that the "settlers" referred to in the motion were entitled to Crown grants of the coal and base minerals under their lands, coupled with a direction to the Government to issue such Crown grants. (*See* Speakers' Decisions, pages 55 and 132.)

9th May, 1902. Journals, p. 106.

The House resumed the adjourned debate on the motion moved by Mr. Hawthornthwaite on the 25th April, as follows:—

Whereas certain persons who settled upon Government lands located within the present Esquimalt and Nanaimo Railway Land Belt have been denied in some cases their land, in others the coal and base minerals under their lands:

And whereas the Dominion Government in 1897 issued a Commission to T. G. Rothwell, Esq., of Ottawa, to inquire fully into the matter, and the said T. G. Rothwell, after a full inquiry, at which all persons interested were represented by counsel, reported that the claims of the said settlers were well founded:

And whereas the Provincial Government issued a Commission to Hon. Eli Harrison, Jr., in 1900, to inquire into the matter, and the said Hon. Eli Harrison, Jr., after inquiry into the matter, but without the aid of counsel, reported against the claims of the settlers:

And whereas the claims of the said settlers should be adjusted:

Be it therefore Resolved, That in the opinion of this House the Government should take their grievances into immediate consideration.

Mr. Curtis moved in amendment, seconded by Mr. Tatlow,—

That the last line of the Resolution be struck out, and the following words substituted therefor: "immediate steps to grant the said settlers their rights."

Mr. Speaker POOLEY: The amendment is out of order. A similar motion was ruled out of order by Mr. Speaker BOOTH on 7th May, 1901. (*See* page 64.) I approve of and follow that decision.

CROWN WATER.

Private Bill. Water rights affecting Crown lands. Ownership of water in the Crown.

12th April, 1892. Journals, p. 117.

Mr. Speaker HIGGINS gave the following decision:—

My ruling of the 17th March as to the constitutionality of Bill No. 6 was referred back to me, on motion of the Hon. Attorney-General, who pointed out that I had failed to rule whether or not the proprietorship of the waters of Goldstream was vested in the Crown or in private individuals. I have bestowed much time and thought on the subject, and while I scarcely think that a matter which involves so much that is intricate and complex, and which is essentially a legal question, ought to be entrusted to a layman for judgment, I have had recourse to the best available authorities, and now present my ruling for the discretion of the House.

In the celebrated case of The Queen *vs.* Robertson (Canada Supreme Court Decisions), the Crown sought to exercise proprietorship over an unnavigable stream in New Brunswick, the land on either side of said stream having been alienated by the Crown without reference in the grant to the stream. Mr. Justice Gwynne, of the Exchequer Court, held that "the established rule of law is that *prima facie* the proprietor of each bank of a stream is the proprietor of half the land covered by the stream. * * * In all such cases the grant covers the bed of the stream, unless there be some expression in the terms of the grant, or something in the terms of the grant taken in connection with the situation and condition of the land granted, which clearly indicates an intention that the grant should stop at the edge or margin of the river, and should exclude the river from its operations. There must be a reservation or restriction, expressed or necessarily implied, to control the general presumption of law, and to make the particular grant an exception from the general rule. This is the established doctrine, not only in England, but in the Courts of the United States of America also." Judgment was given by Mr. Justice Gwynne for the defendant, and his judgment was afterwards affirmed on appeal by the Supreme Court of Canada.

Hale and *Kent*, in their Commentaries, clearly state that "grants of land bounded on rivers, or upon the margin of the same, or along the same above tide-water, carry the exclusive right and title of the grantee to the centre of the stream, unless the terms of the grant clearly denote the intention to stop at the edge or margin of the river."

The lands through which flows the water proposed to be conveyed to the Esquimalt Waterworks Company by Bill No. 6 were conveyed in 1883 to the Esquimalt and Nanaimo Railway Company, and have since passed from that Company to private proprietors. In the Crown grant that conveyed the lands to the Railway Company there is no reservation or restriction to indicate an intention that the grant should stop at the edge or margin of the river, and should exclude the river from its operation.

It follows, therefore, that unless it be shown that the Victoria Waterworks Act of 1873 conveyed the waters of Goldstream to the City of

Victoria, or that subsection (36) of section 8 of the "Interpretation Act, 1872," as cited by the Hon. Member for Victoria City (Mr. Beaven), is binding, the waters of Goldstream within the Railway Belt, not having been excepted, went to the Esquimalt and Nanaimo Railway Company with the grant of the belt, and is not now, and has not been since the issue of the Crown grant, Crown property. The solution of this difficult problem must be left to the legal advisers of the Crown; but I think sufficient has been developed in the Supreme Court case quoted to demonstrate the importance, nay, the necessity, of precautionary legislation that will place the proprietorship of water covered by Crown grants beyond a doubt.

For the information of the House, I transmit with this ruling the report in the case of The Queen *vs.* Robertson; also a letter from Hon. A. N. Richards, whose advice I sought in the dilemma.

VICTORIA, 7th April, 1892.

D. W. Higgins, Esq.,
Speaker, Legislative Assembly.

MY DEAR SIR,—The question you put to me is as to the legality of your ruling with regard to the constitutionality of Bill (No. 6) intituled "An Act to amend the 'Esquimalt Waterworks Act, 1885,'" such ruling being published with the Votes and Proceedings of 17th March.

I cannot understand that any objection could be raised to the Bill on the ground of the Crown being interested and not having assented to the Bill, as it does not profess to deal with the interest of the Crown, the latter not being named, and therefore not bound; so that the promoters, if the Bill passes, take their Act subject to any interest the Crown may have. (*See Maxwell* on Stats., 161 *et seq.*, 2nd edition. *See also* subsection (36) of section 8 of the "Interpretation Act, 1872," as cited by Mr. Beaven on the 18th ult.) Nor can I see how the Crown could be interested, as I understand from your letter that the land adjoining the Goldstream is part of the Island Railway Belt conveyed to the Crown in right of the Dominion by an Act passed 19th December, 1883, and is now owned by the Island Railway Company. All private parties are bound, and have to go to arbitration for damages arising from the exercise by the Company of the law of Eminent Domain.

With respect to water, it is, so long as it is in the running stream, the property of no one, like air and light. The owner of the banks of a stream, as a riparian proprietor, can take the water for a reasonable use as it is passing his property, but he has no property in it before it comes to his land nor after it leaves, nor while opposite his land, but only when he reduces it to possession, as by filling a tank, etc. Should the Crown own land on the banks of the stream, and the Act be construed so as to bind the Crown, then the Crown is interested, and must assent to the Bill, which, when done, is at the third reading (*May's* Par. Prac., 786, 7th edition), and is given in the name of the Crown by a Minister (*May*, 453 *et seq.*). A riparian proprietor has the right to have the water flow to and pass his property in its natural state; and should any party withdraw it by tapping the stream above, so as to inflict damage, the proprietor below has a right of action, and the Crown, if a riparian owner, would be in the same position. The Act amended, however, as I have already mentioned, takes away the action of private parties, and compels them to go to arbitration, but not so

with the Crown, as the arbitration proceedings would not be applicable. You will see in *May*, 456, the practice of requiring the assent of the Crown as the Bill is going through the House is to obviate the necessity of a refusal of the Royal assent after the Bill has passed the House.

Yours, etc.,

A. N. RICHARDS.

Ruling of 17th March, above referred to:—

The point referred to me affects the constitutionality of Bill (No. 6) entitled "An Act to amend the 'Esquimalt Waterworks Act, 1885.'"

The point, which was raised by the Hon. Second Member for Victoria City (Mr. Beaven), is as follows:—

"*That the sanction of the Crown must be obtained before the Bill can be read a second time, because we are asked to deal with the property of the Crown.*"

In considering this point, I must be largely guided by precedent and the practice of this House in dealing with similar Bills—that is, Bills which deal with water and riparian rights. Referring to the Journals of the House since Confederation, I find that in no instance where water rights were affected, or where it was proposed to deal with water that covered or ran through land which belonged to the Crown, has the Crown intervened to assert its rights.

While this point was under discussion, it was stated that the Act which conveyed to the City of Victoria the right to the waters within twenty miles of said city was introduced as a public measure.

Referring to the Journals of 1873, page 6, I find that a petition was received and read from "The Mayor and Corporation of Victoria, praying that a Bill may be passed enabling them to bring in water." On page 16, same Journals, it is recorded: "Mr. McCreight presented a Report from the Select Committee on Private Bills and Standing Orders, in favour of a Bill for the purpose of introducing water into Victoria by the Municipal Council of Victoria. The Report was received."

On page 18 it is further recorded: "Mr. McCreight asked leave to introduce a Bill intituled 'An Act to authorize the Corporation of the City of Victoria to construct Waterworks for the City of Victoria.' *Ordered*, That leave be granted. Bill presented.

"On motion of Mr. McCreight, Mr. Duck seconding,—*Ordered*, That the Bill be now read a first time. Bill read a first time accordingly. Referred to the Select Committee on Private Bills and Standing Orders."

On page 75 it is shown that the Act was read a second time and committed forthwith.

On page 76 progress was reported, and the Bill ordered to be committed again in the evening, when the Bill was reported complete without amendment. The Report was adopted, the Bill read a third time and passed.

I have been circumstantial in quoting the proceedings on the Victoria Waterworks Act, because a part of the rights conveyed by that Act is sought to be acquired by the Esquimalt Waterworks Company in Bill No. 6, now before the House. The Bill, it will be seen, was introduced as a private measure and passed as such, the Crown assenting by its silence to the alienation of the water. The Act makes it lawful for the

City of Victoria, through its agents, servants, or workmen, to enter into and upon the land of any person or persons, bodies politic or corporate, in the City of Victoria, or *within twenty miles of said city*, and to survey, set out, and ascertain such parts thereof as they may require for the purposes of the said waterworks; and also to divert and appropriate any springs, streams, lakes, or bodies of water as they shall judge suitable and proper. The headwaters of Goldstream, from which the Esquimalt Company propose to draw a supply, are "within twenty miles of Victoria."

In 1885, the Esquimalt Waterworks Company had a Private Bill introduced and passed, conferring upon them power to acquire certain waters within twenty miles of Victoria, and neither the Corporation of the City of Victoria or the Government offered any objection.

In 1886, the Vancouver Waterworks Company secured the passage of a Private Bill through this House—the Government not intervening—conveying to the Company the privilege of taking water from Capilano Creek and its tributaries. At the last Session, another Private Bill dealing with the water rights of the same Company was passed, the Government again not intervening.

In 1880, the Quesnelle River Ditch Company secured, by Private Bill, extensive water privileges from this House.

In 1886, the Coquitlam Waterworks Company's Act, the Quesnelle Lake and Dam Company's Act, and the Quesnelle River Ditch Company's Act, all of which conveyed public water rights to private parties, were passed without a murmur of dissent. In point of fact, members of the Government assisted in the passage of each Bill.

In 1888, the South Fork Quesnelle River Flume Company were accorded similar rights under similar circumstances.

Had the Crown intervened in either case, I think that the Bill must have fallen to the ground.

In the matter of the Bill under consideration, I am of opinion that the Crown not having interposed, and so waived its rights, the Bill is properly before the House, and may be proceeded with on the lines already laid down.

An amendment in Committee on a Private Bill conferring rights in Crown water can only be moved by a Minister of the Crown.

In Committee of the Whole on Bill to amend the "Nanaimo Waterworks Amendment Act, 1894," an amendment was moved conferring certain water rights on the Company. 14th January, 1895. Journals, p. 74.

On objection being taken, Mr. Speaker HIGGINS gave the following decision:—

The point referred to me is as to the power of the House to confer power on the Nanaimo Waterworks Company to deal with the rights of the Crown, supposing there to be any unappropriated land or water that would be affected by the Bill.

The matter is very fully dealt with in a ruling made by me on the 12th April, 1892 (page 66, Speakers' Decisions), in which I stated that unless expressly excepted, the water rights passed with the Crown grant of the land (*see* The Queen *v.* Robertson, Canada, S.C. Decisions, and *Hale's* and *Kent's* Commentaries). In the Session of 1892, an Act

(chapter 47, section 3) was passed by this Legislature, which provides that "after the passing of this Act, no right to the permanent diversion or to the exclusive use of the water in any river, watercourse, lake, or stream shall be acquired by any riparian owner, or by any other person, by length of use or otherwise than as the same may be acquired or conferred under the provisions of this Act, or of some existing or future Act of Parliament."

It follows, therefore, that, prior to the passage of the Act of 1892, water rights, not being expressly excepted, went with the land. Since the passage of that Act, water rights are not conveyed by a Crown grant, unless mention is made thereof in the grant.

I therefore rule that, if the land bordering on the water rights proposed to be conveyed by the "Nanaimo Waterworks Amendment Act, 1894," was alienated by the Crown prior to the Act of 1892, the proprietorship of the water is vested in the present holders of the land. If the land is still held by the Crown, or if it were alienated subsequent to the Act of 1892 without the water having been conveyed with the land, the water right is still vested in the Crown, and the consent of the Crown must be obtained before water running through land so held will be available for the purposes of the promoters of the Bill now before the House.

I think that the amendment offered in Committee by the Member for Delta would be in order if moved by a Member of the Government, as the custody of the rights affected is vested in the Crown, whose consent as to alienation of the water rights of the Crown will be necessary before the Bill can become law.

Defining the rights of a Private Member to introduce a Bill to amend Acts dealing with water.

24th March, 1898. Journals, p. 78.

The adjourned debate on the second reading of Bill (No. 33) intituled "An Act to amend the 'Water Clauses Consolidation Act, 1897,'" was resumed.

On the point of order, viz.: "That the Bill affected the rights of the Crown in the water of the Province, and that the same could not be introduced by a private member," Mr. Speaker BOOTH ruled that the first part of section 1 of the Bill is almost the same as section 41 of the Act sought to be repealed, and is a re-enactment, as required by Rule 71, and therefore in order.

The subsections (*a*) and (*b*) of the said section 1, which read as follows:—

"(*a.*) The provisions of this section shall apply to recorded water held under previous Acts:

"(*b.*) In expropriating such water, when it has not been used for a period of five years prior to such expropriation, the arbitrators shall take as the basis of their valuation the amount which would be required to construct such works as may exist at the date of such arbitration, and the condition in which the works are in at such date, and shall not allow anything for the value of such recorded water,"—

are new, and as they refer to recorded water only, in which the rights of the Crown have been parted with by the record being made, I rule the Bill to be in order.

CROWN PREROGATIVES.

Bill to amend the Constitution Act should be introduced by the Government, or with its consent.

Bill (No. 19) intituled "An Act to amend the Constitution Act, 1878, by providing for a Redistribution of Seats in the Districts of Nanaimo, New Westminster, Esquimalt, and Cassiar." 26th February, 1879. Journals, p. 23.

Mr. Speaker WILLIAMS: On the motion being made yesterday for the second reading of this Bill, it was objected to on the ground that the Bill was of such a nature that it should, if introduced at all, emanate from the Government, and I was called on to decide the point. I was then, and am still, of opinion that the Bill was of such a character that it should have been introduced by a Member of the Government, or with their sanction.

The authorities on this subject are as follows:—

"By modern constitutional practice, Ministers of the Crown are held responsible for recommending to Parliament whatsoever laws are required to advance the national welfare, or to promote the political or social progress of any class or interest in the commonwealth.

"But it has only been by degrees, and principally since the passing of the Reform Acts of 1832, that it has come to be an established principle that all important acts of legislation should be originated, and their passage through Parliament facilitated, by the Advisers of the Crown. Formerly, Ministers were solely responsible for the fulfilment of their executive obligations, and for obtaining the sanction of Parliament to such measures as they deemed to be essential for carrying out their public policy. But the growing interest which, of late years, has been exhibited by the constituent bodies upon all public questions, and the consequent necessity for systematic and enlightened legislation for the improvement of our political and social institutions, and for the amelioration of the laws, in accordance with the wants of an advancing civilization, together with the difficulty experienced by Private Members in carrying Bills through Parliament, have led to the imposition of additional burthens upon the Ministers of the Crown, by requiring them to prepare and submit to Parliament whatever measures of this description may be needed for the public good.

"On the other hand, it should be freely conceded to Private Members that they have an abstract right to submit to the consideration of Parliament measures upon every question which may suitably engage its attention, subject only to the limitations imposed by the prerogative of the Crown, or to the practice of Parliament.

"Bearing this in mind, it must be admitted that the rule that all great and important public measures should emanate from the Executive has of late years obtained increasing acceptance. The remarkable examples to the contrary, which are found in parliamentary history antecedent to the first Reform Acts, could not now occur without betokening a weakness on the part of the Ministers of the Crown which is inconsistent with their true relation towards the House of Commons. By modern practice 'no sooner does a great question become practical, or a small question great, than the House demands that it shall be "taken up" by the Government. Nor is this from laziness or indif-

ference. It is felt, with a wise instinct, that only thus can such questions in general acquire the *momentum* necessary to propel them to their goal, with the unity of purpose which alone can uphold their efficacy and [preserve their] consistency of character.'

"In 1838, on a Private Member moving for leave to bring in a Bill for the provisional government of New Zealand, objection was taken by Mr. C. W. Wynn (an eminent constitutional authority) and others, that Bills of this description, or which might involve questions of international law, should be submitted to Parliament by the Administration. In reply, the case was cited of the Bill to establish a Colony in South Australia, which was brought in by a Private Member, though with the formal consent of the Crown to the motion for its introduction. Whereupon Lord John Russell (the Home Secretary) gave the consent of the Crown to the introduction of this Bill; reserving the right to Ministers to support or oppose it at any future stage; and the Bill was accordingly introduced. But being found to contain certain objectionable provisions it was opposed by Ministers, and rejected on its second reading.

"In 1861, Mr. Locke King brought in a Bill for the extension of the county franchise, and Mr. Baines a Bill to extend the borough franchise; but both these measures were thrown out by means of the previous question upon the motion to read them a second time, being opposed by Lord Palmerston (the Prime Minister) on the ground that measures of such importance 'ought to originate with a Responsible Government, and not to be left in the hands of a Private Member to take their chance.' And it was forcibly objected by another speaker, that a Private Member, however able, was responsible only to himself and those who sent him to Parliament, and his views were likely to be limited by the desires and circumstances of a small section of the community, so that it would be unreasonable to expect from such an one a broad and statesmanlike measure.

"On March 1st, 1867, a conversation took place in the House of Commons with reference to the law of master and servant. In the previous session a Select Committee had been appointed to consider this subject, which had reported that the present state of the law was objectionable, and had advised certain specified changes therein. It being admitted that a change was necessary, the question arose by whom it should be made. It was urged that the matter was too important to be dealt with by a Private Member, and should be undertaken upon the responsibility of the Government. Whereupon Mr. Walpole (the Home Secretary) stated that he was in communication with the Attorney-General on the subject, and hoped to be able to bring in a Bill in relation thereto as soon as the great pressure of government business would permit.

"On April 9th, 1867, a Private Member moved for leave to bring a Bill into the House of Commons to amend the representation of the people in Ireland. The Secretary for Ireland (Lord Naas) said that the Government did not object to the introduction of this Bill, as it was desirable that the House should see the scheme which had been framed by so experienced a Member. But he reserved the right to express his opinion on the measure until a future occasion. The Bill was then presented, and read a first time. On June 28th, however, the Bill was withdrawn." (*See Todd*, 299, Vol. II., and following pages.)

Bearing in mind the opinions several times expressed by Mr. Speaker Trimble, who had long presided over this House, with respect to Bills objected to on the ground above stated, and whose opinions no doubt were founded on the authorities just quoted, I gave as my opinion that the motion for the second reading was out of order; but, as I stated when deciding a former question, I have no desire to prevent matters being brought under the consideration of the House, and, on reflection, I have arrived at the conclusion that the better way will be to leave the matter to be dealt with entirely by the House.

The Honourable Member may, in view of the authorities quoted, withdraw the Bill by leave of the House, or the House, if they agree with me, can dispose of the matter, in accordance with the views herein expressed, by a motion of the "previous question."

Mr. Dunsmuir asked leave to introduce a Bill intituled "An Act to amend the 'Constitution Act, 1871,' so as to provide for Biennial Sessions of the Legislative Assembly." 9th March, 1887. Journals, p. 41.

A point of order arose.

Mr. Speaker POOLEY reserved his decision until the 22nd March, when he ruled the motion out of order.

Mr. Speaker: On this motion a point of order has been raised, on the ground that a motion for leave to introduce a Bill to amend the Constitution by a Private Member of the House is out of order.

By section 3 of the Terms of Union, the Dominion Government undertake to pay to British Columbia, for the support of its Government and Legislature, an annual subsidy of $35,000.

I am of opinion that the Bill proposed to be introduced is out of order, in that it would be contrary to the Provisions of the Terms of Union.

A Private Member asked leave to introduce a Bill to amend the Constitution Act. 22nd February, 1893. Journals, p. 32.

Mr. Speaker HIGGINS ruled the motion out of order.

Mr. Higgins asked leave to introduce a Bill to limit the Sessions of this Assembly to forty-two calendar days from the date of opening, and to fix the hours for holding the sittings thereof by Statute. 5th April, 1887. Journals, p. 88.

Mr. Speaker POOLEY: It is not competent for the Honourable Member to introduce such a Bill.

Mr. Semlin asked leave to introduce a Bill intituled "An Act to regulate the Meeting of the Legislative Assembly of British Columbia." 22nd March, 1883. Journals, p. 42.

Mr. Speaker MARA ruled that the proposed Bill could not be introduced by a Private Member.

Bills affecting the prerogative of the Crown cannot be introduced by Private Members.

22nd February, 1881. Journals, pp. 22, 32.

Mr. Ash asked leave to introduce a Bill (No. 21) intituled "An Act to amend the 'Petitions of Right and Crown Procedure Act, 1873.'"

Ordered, That leave be granted.

A point of order having arisen, Mr. Speaker stated that the Bill required the consent of the Crown. The same question arose on a similar Bill in the Session of 1879, and it was decided that a Private Member could not proceed with the Bill. I think the objection had better be taken on the motion for the second reading of the Bill.

Bill introduced and read a first time.

Ordered to be read a second time on Friday next.

On 3rd March, Mr. Ash moved the second reading of the Bill, and the objection was again taken.

On 9th March, Mr. Speaker WILLIAMS gave his decision as follows:—

While Members have, undoubtedly, an abstract right to present any proper subject by Bill or motion for discussion in the House of Commons, and therefore in this House, still English Parliamentary Practice has established the principle that questions which relate to the prerogative of the Crown can only be dealt with by the Crown itself, or by a Private Member who has received the consent of the Crown, given through one of its Ministers.

This Bill purports to be an amendment to the Crown Suits Procedure Act of 1873.

Referring to *Todd* on Parliamentary Government in England, Vol. I., page 245, I find that the Crown, by virtue of its prerogative, cannot be sued without its express consent—there the question of suits against the Crown is mentioned as one of prerogative.

Going back to the Act of 1873, the Crown in that Act stipulated that suits might be brought against it on certain conditions only, which conditions form part of the Act.

A Private Member now seeks by an amending Act to change those conditions, not only without first having obtained the consent of the Crown, which, if given, is given through a Minister, but in the face of a refusal of that consent; this, in my opinion, he cannot do.

According to *May*, a Private Member cannot introduce an original Bill which affects a prerogative of the Crown, or any measure amending such Bill, without first obtaining the consent of the Crown.

It is stated on pages 467 and 468 of the 8th edition: "That the Royal consent is given by a Privy Councillor to motions for leave to bring in Bills, or to amendments to Bills * * * which concern the Royal prerogatives."

Private Bills relating to any claim upon the Crown are subject to the same rule. (*May*, 8th edition, page 731.)

Where the consent is refused it is useless to proceed with the Bill, as according to *May*, 8th edition, page 468, "where such Bills have been suffered, through inadvertence, to be read a third time and passed, the proceedings have been declared null and void."

Mr. Smithe appealed from the decision.

The Chair was sustained on appeal.

Mr. Ash moved the second reading of Bill (No. 11) intituled "An Act to amend the 'Petition of Right and Crown Procedure Act, 1873.'" 17th April, 1882. Journals, p. 49.

Mr. Speaker WILLIAMS ruled the motion and the Bill out of order, and referred to his decision on a similar Bill in 1881. (*See* preceding ruling.)

Bill sent down by Message. Amendment dictating policy affecting grant of Crown land. The whole Bill is open to consideration. All amendments which are coherent and consistent with the contents of the Bill are admissible.

The adjourned consideration of the Report on Bill (No. 16) intituled "An Act respecting the Songhees Indian Reserve" was resumed. 13th March, 1905. Journals, p. 55.

On the point of order raised thereon at the last sitting, Mr. Speaker POOLEY gave the following decision:—

On Friday, the 10th March, instant, the Hon. the Chief Commissioner moved the adoption of the Report of Bill (16) intituled "An Act respecting the Songhees Indian Reservation, Vancouver Island."

Mr. Cameron moved the following amendment thereto, viz.:—

"Section 2, lines 3 and 4—Strike out the word 'such' between the words 'upon' and 'terms' in the third line, and strike out the words 'may be deemed advisable' in the fourth line, and insert the word 'follows' at the end of the section.

"To add the following as subsections to section 2:—

"'(1.) For a free grant to the City of Victoria of the twenty-five acres (more or less) of the reserve lying to the north of the Esquimalt Road, such land to be used for public park purposes, upon such terms and conditions as the Lieutenant-Governor in Council may prescribe:

"'(2.) By giving to the City of Victoria the first right to purchase or acquire the seventeen and one-half acres (more or less) of the said reserve lying to the south of the Esquimalt and Nanaimo Railway right-of-way, upon such terms and conditions as may be agreed upon between the city and the Lieutenant-Governor in Council:

"'(3.) By a free grant to the City of Victoria of sites for purposes of (*a*) public school or schools, (*b*) fire-halls, (*c*) three public landing-places, including wharves and buildings, upon such terms and conditions as the Lieutenant-Governor in Council may prescribe:

"'(4.) The remaining portions of the reserve may be disposed of by public auction, under the terms and conditions as provided by the Land Act.'"

A question was raised as to whether this amendment was in order, as dictating a policy to the Government, by setting forth the manner in which they should deal with certain Crown lands, which it was not competent for any Private Member of the House to move. There was considerable argument upon this question and a number of precedents were cited.

This is a Bill brought down for the purpose of enabling the Government to deal with a specific piece of land, and set out the terms and conditions under which it should be disposed of.

This Bill was introduced by Message from His Honour the Lieutenant-Governor, and the whole subject-matter of the Bill was submitted for the consideration of the House.

In Committee of the Whole House, amendments may be made in every part of the Bill, whether in the preamble, the clauses, or the schedules. (*May*, 457.)

An amendment must be coherent and consistent with the contents of the Bill. (*May*, 458.)

When the Bill, as amended by the Committee, is considered, the entire Bill is open to consideration, and new clauses may be added and amendments made. (*May*, 466.)

In this case the Bill has been submitted by Message, and the whole Bill is before the House for consideration; the amendment is coherent and consistent with the contents of the Bill and does not propose to interfere with the general policy of the Government, but its purport is confined to the specific lands dealt with by the Bill, and I am of opinion, therefore, that the amendment is in order.

Bills affecting, can only be introduced with consent of the Crown.

20th May, 1902. Journals, p. 120.

Order for the second reading of Bill (No. 33) intituled "An Act to amend the 'British Columbia Public Works Loan Act, 1901,'" called.

Mr. Speaker POOLEY: In my opinion, this Bill is out of order.

The "British Columbia Public Works Loan Act, 1901," which it is proposed to amend, is an Act appropriating large sums of the public money for the construction of public works, and is a measure that can only be introduced by the Government.

A Private Member cannot introduce an original Bill which affects a prerogative of the Crown, or any measure amending such Bill, without first obtaining the consent of the Crown. (Speakers' Decisions, page 74.)

20th May, 1902. Journals, p. 119.

Order for the second reading of Bill (No. 23) intituled "An Act to amend the 'Railway Assessment Act'" called.

Mr. Speaker POOLEY: In my opinion, this Bill is out of order.

The "Railway Assessment Act," which it is proposed to amend, is an Act which can only be introduced by the Government, and cannot be amended by an Act introduced by a Private Member, except with the consent of the Government. (Speakers' Decisions, page 74.)

It also interferes with the revenue, and is out of order. (*See* Speakers' Decisions, page 160.)

Bill relating to Labour introduced by Private Member ruled out.

7th August, 1900. Journals, p. 120.

Mr. McInnes moved the second reading of Bill (No. 9) intituled "An Act relating to Labour."

Mr. Speaker BOOTH ruled the Bill out of order, as its provisions interfered with the prerogative of the Crown. (*See Todd's* Parliamentary Government in England, 2nd edition, page 454.)

Mr. McInnes appealed from the decision of the Chair.

The Chair was sustained on appeal.

Amendment affecting the leasing of foreshore fishing-sites and granting of fishing licences ruled out.

The House resumed the adjourned debate on the motion moved by Mr. McBride on the 23rd April, as follows:— 7th May, 1902. Journals, p. 103.

That the conduct of the Government in connection with the foreshore rights of this Province is deserving of the censure of this House.

Mr. Kidd moved in amendment, seconded by Mr. Garden,—

That all the words after the word "That" be struck out, and the following substituted, viz.: "it is the opinion of this House that no foreshore suitable for fish-trap sites should be leased or otherwise disposed of until an understanding is reached between the Dominion Government and the Government of this Province in respect to the granting of licences for catching fish by the use of traps on the coast of British Columbia."

Mr. Speaker POOLEY: The amendment is out of order, on the ground that it affects the policy of the Government *re* foreshore rights and fish-trap sites, and interferes with the prerogative of the Crown in leasing or otherwise disposing of the same.

(*See* Speakers' Decisions, pages 61, 80, 81, and following decision.)

Motions dictating policy re prerogatives of the Crown cannot be moved.

The House resumed the adjourned debate on the motion moved by Mr. McBride on the 23rd April, as follows:— 25th April, 1902. Journals, p. 84.

That the conduct of the Government in connection with the foreshore rights of this Province is deserving of the censure of this House.

Mr. Oliver moved in amendment, seconded by Mr. Stables,—

That all the words of the Resolution after the first word "That" be struck out, and the following words inserted in lieu thereof: "in the opinion of this House, no foreshore rights should be disposed of except by open competition, and under such conditions that will ensure the use and occupation of the same, and such restrictions as will prevent monopoly and the employment of Chinese and Japanese."

A point of order arose.

Mr. Speaker POOLEY: The motion is out of order. It dictates a policy to the Government, restraining free action by them in dealing with foreshore rights. (*See* ruling on similar point on 14th April, 1902.)

Motion. A mandatory motion affecting the administration of Crown lands cannot be moved.

The adjourned debate on the motion moved by Mr. Macpherson and seconded by Mr. Forster, as follows:— 17th February, 1897. Journals, p. 18.

That this House is of opinion that the authority conferred upon the Chief Commissioner of Lands and Works to sell lands should not apply to lands upon the sea-coast and navigable arms, inlets, and rivers, as far as navigable, as it is impossible at present to say what portions of such lands may in the future be required for fishing-stations; and that no applications already made, for which Crown grants have not yet been

issued, should be granted, but that leases be granted in lieu thereof, unless the applicants already have leases, in which cases their application for Crown grants should be cancelled,—
and the amendment thereto moved by the Hon. Mr. Martin and seconded by the Hon. Colonel Baker:—

To leave out all the words after "That" in the first line, and in lieu thereof insert: "it is desirable for the Government to consider whether lands upon the sea-coast and upon navigable arms, inlets, and rivers, so far as navigable, should not be withdrawn from sale, and that instead of sale a policy of leasing should be adopted,"—
was resumed.

On objection being taken, Mr. Speaker HIGGINS ruled the motion out of order, and gave the following decision thereon:—

The motion of the Hon. Second Member for Vancouver (Mr. Macpherson) asks the House to definitely instruct the Government with respect to the operation of the "Land Act," in so far as the provisions of that Act deal with lands upon the sea-coast and upon navigable rivers, etc., available for fishing-stations.

The motion is important and sweeping in its scope and character, and if passed by the House must be accepted by the Government as an imperative instruction. Had the matter come before the House in the form of a Bill it would be out of order, as attacking the prerogative of the Crown, with whom the power to deal with Crown lands and to initiate legislation for the administration of the lands resides; and I am of opinion that in its present form, being mandatory in its expression and intent, the Resolution would have all the effect of a Bill, since its passage would compel the Government to bring down an amendment to the "Land Act," or adopt the only alternative open to them. (*See* Speakers' Decisions, page 55, and page 36, Journals of this House, 1887.)

I rule the Resolution out of order in its present form.

Motion expressing views as to the dissolution of the House does not encroach upon the prerogative of the Crown.

16th April, 1903. Journals, pp. 18, 21.

Mr. Speaker POOLEY gave the following decision on the point of order raised on 15th inst.:—

It was moved by Mr. Smith Curtis, seconded by Mr. Hawthornthwaite,—

That it is in the interest of good government that there should be a dissolution of the Legislature and an appeal to the electorate immediately after the close of the present Session.

Hon. Mr. Prentice objected to the Resolution on the ground that, if it passed, it would necessitate the expenditure of public moneys, and therefore could not be put from the Chair unless recommended by the Crown.

Hon. Mr. Prior raised the further point against the resolution, viz., that it encroached upon the prerogative of the Crown.

On the first point, with reference to the necessary expenditure of public money: I do not think that this principle (as set out in Rule 118) would apply in the present instance, as any vote of want of confidence

in the Government (which this House has undoubted right to pass at any time) might entail an expenditure of public money, as the Crown might dissolve the House, which would necessitate an appeal to the people.

As to the second point, that the Resolution encroaches upon the prerogative of the Crown: The right of petitioning the Crown and Parliament for redress of grievances is acknowledged as a fundamental principle of the Constitution (*May* 493). A resolution of the Legislature is only another form of expressing the views of the people. The dissolution, or otherwise, of the House is entirely in the discretion of His Honour the Lieutenant-Governor, notwithstanding the remonstrance of one or both branches of the Legislature (*Todd's* Parliamentary Government in the British Provinces, pages 802, 2nd edition).

I am therefore of opinion that the motion is in order. It is not mandatory, but suggestive, and does not encroach on the prerogative of the Crown.

GOVERNMENT POLICY.

Motion seeking to control policy of the Government.

6th May, 1901. Journals, p. 125.

Mr. Oliver moved, seconded by Mr. Munro,—

That whereas advertisements asking for proposals for the construction of a Coast-Boundary Railway have been published:

And whereas a Bill is now before this House authorizing the payment of a subsidy of $4,000 per mile to assist in the construction of said Coast-Boundary Railway:

And whereas several proposals have been submitted to the Government offering to undertake the construction of said Coast-Boundary Road:

And whereas it is proposed to summon an extra Session of the Legislature to ratify any contract which may be entered into by the Lieutenant-Governor in Council for the construction of said Coast-Boundary Road:

And whereas such proposed extra Session of the Legislature would entail great inconvenience to the Members of this House, as well as a large additional expense to the Province, and would also seriously delay the construction of the road:

And whereas it is in the best interests of the Province that the construction of said Coast-Boundary Road should be proceeded with at once and pushed forward to completion with all reasonable dispatch:

Therefore, be it Resolved, That in the opinion of this House a contract providing for the construction and operation of the said Coast-Boundary Road, as a competitive road, should be submitted to this House for ratification before the close of the present Session of the Legislature.

Mr. Speaker BOOTH: I must rule this motion out of order, on the ground that the motion seriously affects the policy of the Government, as laid before the House, on railway matters, and especially with reference to Bill (No. 84) intituled "An Act to authorize a Loan of Five Million Dollars for the Purpose of aiding the Construction of Railways and other Important Public Works," which is still before the House. (*See* Speakers' Decisions, page 104.)

(Ruling on 1st April, 1901 (Journals, page 56), followed. Speakers' Decisions, page 81.)

A motion interfering with the policy of the Government cannot be moved.

9th March, 1897. Journals, p. 49.

Mr. Forster moved the following Resolution:—

Whereas, in the present stage of mining development in British Columbia, the construction of railways has become an imperative necessity:

And whereas the construction of a railway from the Coast to Southern Kootenay, and on through the Crow's Nest Pass, has become particularly desirable:

And whereas it is deemed to be in the interest of the people that such railway should be constructed and owned by the Government:

And whereas this Province annually pays into the Dominion Treasury a sum several hundred thousand dollars in excess of the sum returned to it in subsidies, public works, and its share of the cost of administration:

Therefore, be it Resolved, That in the opinion of this House the Government of British Columbia should enter into negotiations with the Dominion Government to secure the construction by that Government, or by that Government with the assistance of this Province, of a railway from the Coast to the Crow's Nest Pass; and that, failing the acceptance by the Dominion Government of this policy, the Provincial Government should endeavour to obtain from the Dominion Government such assistance as will enable the Province to build the railway as a Provincial Work, without straining its resources too heavily.

Mr. Speaker HIGGINS ruled the motion out of order.

A report from a Committee will not be received if it exceeds its powers or seeks to interfere with the policy of the Government.

Mr. Booth moved, seconded by Mr. Stoddart,— 24th February, 1897. Journals, p. 36.

That the Eighth Report of the Private Bills Committee be adopted.

Mr. Speaker HIGGINS ruled the motion out of order, as the Report exceeded the powers of the Committee, and sought to control the policy of the Government.

The Report from the Committee was as follows:—

LEGISLATIVE COMMITTEE ROOM,
February 22nd, 1897.

MR. SPEAKER:

Your Select Standing Committee on Private Bills and Standing Orders beg leave to report as follows:—

That in view of the large number of applications made at the present Session for water privileges, and the importance of the subject, your Committee would respectfully recommend that the Government should introduce legislation dealing with the question of the appropriation and utilization of water.

J. P. BOOTH,
Chairman.

Motion affecting Government railway policy.

Mr. Houston moved, seconded by Mr. Green,— 1st April, 1901. Journals, p. 56.

Whereas the question of granting a charter for a railway from the Crow's Nest Pass Coal-mines to the International Boundary is one that concerns the future success of mining, which is the greatest industry in British Columbia:

Be it therefore Resolved, That, if such railway is needed to ensure the rapid development of the coal-mines in that district, in the opinion of this House its construction should be undertaken as a Provincial public work.

Mr. Speaker BOOTH: This motion seeks to control the policy of the Government, and, if passed by the House, would be an imperative instruction to the Government upon a question of railway policy and the expenditure of public moneys thereunder. The motion is out of order. (*See* Speakers' Decisions, pages 77, 80, and preceding ruling.)

DEBATE.

Adjournment of. The debate must be strictly confined to the object of the motion.

22nd April, 1897. Journals, p. 125.

A point of order having arisen as to the right of an Hon. Member to discuss the merits of a question upon a motion for an adjournment of a debate, Mr. Speaker HIGGINS ruled that the debate must be confined to the matter of the motion for the adjournment, and in support of that ruling submits the following authorities:—

There is no Rule in this House bearing on the point, but—

Rule 131 provides that: "In all unprovided cases, the rules, usages, and forms of the House of Commons of the United Kingdom of Great Britain and Ireland shall be followed."

Rule 22 (Imperial House of Commons, passed 27th November, 1882): "That when a motion is made for the adjournment of any debate, or of the House during any debate, or that the Chairman of a Committee do report progress or do leave the Chair, the debate thereupon shall be confined to the matter of such motion."

On a motion for the withdrawal of a Bill, or for the postponement of a stage of a Bill, the provisions thereof must not be discussed, and debate must be strictly confined to the object of the motion. Debate also on a motion for the adjournment of the House, or of the debate, must, pursuant to Standing Order No. 22, be kept to the motive of the motion. (*May*, 10th edition, page 300.)

It is not regular to discuss the merits of a Bill, or other order of the day, upon a motion for its postponement. Otherwise the merits of a Bill might be debated not only upon its several stages, but whenever its postponement is proposed. (*May*, 10th edition, pages 301, 302.)

Bourinot, page 351, says: "The rule requiring that speeches should be relevant to the question under consideration has never been applied in the Canadian Houses—nor until recently in the English Parliament—to motions for the adjournment of the House or the debate. New rules have been very recently adopted in the English Commons to confine debate to the motion for adjournment, when it is made during the discussion of the matter."

The wisdom of the rule of the Imperial Parliament will be understood when I point out that in its absence a matter might be debated over and over again by the same Members on motions to adjourn. A lamentable instance of what may be done in this direction is presented by a recent debate in the Canadian House of Commons, where, on a motion to adjourn a debate, the whole question was gone over again, and much valuable time wasted in a discussion by Members who, at an earlier stage having spoken to the main question, claimed and were accorded the privilege of discussing the whole matter again.

Address in reply to the Speech of His Honour the Lieutenant-Governor. Conduct of debate. Address taken as a whole or clause by clause.

A question having arisen as to whether the House has agreed to consider the Address as a whole or clause by clause,— 19th January, 1900. Journals, p. 16.

Mr. Speaker FORSTER ruled that as the amendment was to strike out every clause but the first clause of the Address, and the House having decided that the clauses proposed to be struck out shall stand part of the question, showed that the Address had been taken, dealt with, and debated by the House as a whole, and that he would so decide.

The Chair was sustained on appeal.

Question proposed—"That the Resolution be now read a second time."

Mr. Turner moved in amendment—That the Address be read and taken clause by clause.

Mr. Speaker stated he thought the motion was out of order, but he would leave the question to the House.

The amendment was negatived on division.

Debate on Address in reply to the Speech of His Honour the Lieutenant-Governor. Speech to be dealt with as a whole. Conduct of debate. Order in moving amendments.

Pursuant to Order, the House resumed the adjourned debate on the Address in reply to the Speech of His Honour the Lieutenant-Governor at the opening of the Session, and the amendment thereto moved by Mr. McBride on the 3rd. 12th March, 1902. Journals, p. 13.

Mr. Curtis moved in amendment, seconded by Mr. Hawthornthwaite,—

That paragraph 11 of the motion in reply to the Speech of His Honour the Lieutenant-Governor be struck out, and the following substituted therefor:—

"11. The proposed contract signed by the Canadian Northern Railway Company for the construction of a railway from Bute Inlet to Yellowhead Pass is not satisfactory, but efforts will not be relaxed to get this projected railway built.

"We hope, also, that a satisfactory arrangement will be soon made for the building of a railway to the north end of Vancouver Island, with a branch to Alberni, in which case proper control of all rates from Victoria to the northern terminus shall be conceded to the Province. The building of the Coast-Kootenay Railway, either as a Government work or as a competitive line, will be arranged for, and the work of construction, if at all possible, will be begun during the coming summer."

And that the following new paragraph be added to the said motion in reply:—

"15. Measures for the re-enactment of the provisions contained in the Acts disallowed by the Dominion authorities, and known as the 'British Columbia Immigration Act, 1900,' and the 'Labour Regulation Act, 1900,' will be brought forward, and will contain additional safeguards for the protection of desirable residents of British Columbia."

And that a further new paragraph be added to the said motion in reply, as follows:—

"16. A measure will be introduced making provisions that where assistance in land or money, or by valuable franchise beyond a certain

estimated value, is proposed to be given by the Province to any private enterprise, such proposal shall not become effective until after the lapse of a certain time, during which the electorate of the Province, if a certain percentage thereof shall petition for a referendum, shall have such proposal submitted to the votes of the electors, and shall by a majority vote have approved of the same."

A point of order arose, as to whether the amendment could be moved at this stage.

13th March, 1902. Journals, p. 16.

Mr. Speaker POOLEY: The practice in dealing with the reply to the King's Speech has been varied in recent years, and it is desirable to have a definite practice laid down.

I therefore suggest to your honourable body that the following practice should be adopted upon the consideration of the reply to the Speech:—

The Speech should be dealt with as a whole.

Any Member who has only spoken to an amendment may speak to the main question, and to any further amendment that may be proposed.

Only one amendment can be before the House at one time.

After an amendment to any paragraph of the reply has been put to the House, no amendment can be made to a previous paragraph.

Any Member who has spoken to an amendment only may (if he has not moved or seconded a previous amendment), upon speaking to the main question, move an amendment.

The amendment moved by Mr. Curtis is therefore out of order at this stage.

Leave was given Mr. Curtis to move his amendment at a later stage.

Mr. Helmcken moved the following amendment:—

That this House regrets that in your Honour's Speech no indication is given of the attitude of Your Honour's Ministry on the question relating to Mongolian and Oriental immigration, and in the absence of any protest on the part of Your Honour's Advisers against the disallowance by the Dominion Government of the "Labour Regulation Act, 1900," and "British Columbia Immigration Act, 1900," which Acts should be re-enacted during the present Session.

Mr. Speaker: The amendment cannot be moved at this stage. There can only be one amendment before the House at one time.

The amendment moved by Mr. McBride was withdrawn, with leave.

Must be relevant. Improper to debate matters already decided in same Session.

22nd January, 1900. Journals, p. 19.

Mr. Clifford moved, seconded by Mr. Irving,—

That in view of the hasty legislation by the Government last Session in amending the "Placer Mining Act," by which aliens are deprived of the right to acquire placer mines in this Province, having proved highly detrimental to the mining industry by obstructing the introduction of capital, creating a distrust in titles to mining claims, and by hampering the development of such industries, the Government has forfeited the confidence of the people of this Province.

A question of order arose, upon which Mr. Speaker FORSTER ruled: That Mr. Jos. Martin, Member for Vancouver, was out of order in

referring to and discussing on the present motion the debate on the amendment of Mr. Turner to the Address in reply to the Speech of His Honour the Lieutenant-Governor, disposed of by the House on the 19th instant. (*May*, 308.)

The Chair was sustained on appeal.

A matter already discussed and passed upon cannot be considered a second time. It is not in order on a motion to anticipate the discussion on Public Bills then on the Order Paper.

The House resumed the adjourned debate on the motion—"That Mr. Speaker do now leave the Chair" (for Committee of Supply), and the amendment thereto moved by Mr. Oliver, as follows:— 27th May, 1902. Journals, p. 130.

That all the words of the Resolution after the first word "That" be struck out, and the following words inserted in lieu thereof: "this House condemns the railway policy of the Government."

Mr. Speaker POOLEY: I must rule the motion out of order; the matter has already been discussed and passed upon by the House this Session. (*See* Journals, 15th April, 1902.)

The amendment is also out of order, on the ground that there are now on the Order Paper for consideration in Committee of the Whole certain Public Bills dealing with several railway schemes involved in the policy of the Government. It is not in order for the Hon. Member, on this amendment, to anticipate the discussion on those Bills. (*See* E.H., Vol. 308, page 1758.)

Same matter having been debated and passed upon the same Session, cannot be moved again.

The Hon. Mr. Prior moved—That Bill (No. 94) intituled "An Act to aid the Construction of a Railway from Kitimaat Inlet to Hazelton" be read a second time now. 6th June, 1902. Journals, p. 154.

A debate arose.

Mr. McBride moved in amendment, seconded by Mr. Green,—

To strike out all the words after "That," and to insert in lieu thereof: "it is not advisable to pass any Bill providing for aid, leaving it to the Government to enter into the agreement with the railway company without submission to the House for ratification; and that the Bill should be one confirming an agreement for immediate construction, and thereby prove to the country that the railway is to be immediately constructed—not the passage of a measure that means no railway-construction in the immediate future.

"Also, that the Bill (No. 94) should have at least made provision for the contract being made with such company or firm as would first put up the requisite security, guaranteeing the earliest construction of the railway, and that no contract should be entered into by the Government until such security were given."

Mr. Speaker POOLEY ruled the amendment out of order, the same motion having been moved as an amendment on the second reading of

Bill (No. 93) intituled "An Act to aid the Construction of a Railway from Midway to Vernon," on the 4th June, instant, and the House having expressed its opinion thereon. (*May*, 10th edition, page 286; E.H. 214, page 287.)

Private papers, cited from in debate, need not be laid upon the table.

11th March, 1887. Journals, p. 43.

Mr. Speaker POOLEY gave a decision on the point of order as to whether a Member was bound to lay upon the table of the House a private letter, portions of which he had cited during debate, as follows:—

There is no rule requiring the production to the House of any private letters, memoranda, or documents which have been cited or quoted from during debate. (*See May's* Parliamentary Practice, 8th edition, pages 350, 351; *Bourinot*, edition of 1884, page 347; *Canadian Hansard*, 1887, pages 511, 512, and 584 to 588.)

The "right of reply" is lost by speaking to an amendment.

5th March, 1888. Journals, p. 45.

Mr. Speaker POOLEY: The question left to me for consideration by the House is—

Whether a Member who has moved a substantive motion, to which an amendment has been made, can speak to the amendment and still exercise a right of reply.

I think not.

By Rule 23 of our Rules and Orders, no Member may speak twice to a question, except, etc., as therein stated. A reply is allowed to a Member who has made a substantive motion to the House, but not to any Member who has moved an amendment, etc.

If a mover of a substantive motion were to speak to the amendment and then reply, he would speak to the amendment twice, contrary to the spirit of Rule 23.

If the mover of a substantive motion chooses to speak to any amendment, he will lose his right of reply.

This has been the practice always adopted in this House, and I think it the correct one.

DISORDER.

Words taken down. No other action taken without a motion.

Mr. McPhillips objected to certain words used by Mr. Hall as being disorderly, and requested that the said words be taken down. 27th May, 1902. Journals, p. 132.

The Clerk took down the words objected to, as follows:—

"It is an ill bird that fouls its own nest, and that's what the Hon. Member" (meaning Mr. McPhillips) "is doing."

Mr. Speaker: I think the words are disorderly, and that the Hon. Member using them should apologize to the House for so doing.

Mr. Hall declined to make any apology.

Mr. Speaker: Unless some Hon. Member is prepared to make a motion, I must call upon Mr. McBride to resume the debate.

Debate resumed.

Words taken down. Disorderly conduct.

On the third reading of Bill (No. 17) intituled "An Act to prohibit Aliens from voting at Municipal Elections" a debate arose, during which Mr. McPhillips objected to certain words used by Mr. Martin as being disorderly, and requested that the said words be taken down. 17th April, 1902. Journals, p. 69.

The Clerk took down the words objected to, as follows:—

"The Honourable Member degrades himself by coming into this House and retailing such low-lived, dirty, gossipy statements."

Mr. Speaker Pooley: In view of the provocation given by Mr. McPhillips, in suggesting that the Bill under discussion had been introduced by Mr. Martin in consequence of a quarrel he had had with an American citizen of Vancouver, I cannot say that the words used are disorderly, but they are words that I strongly deprecate being made use of by any Member, and I think the Hon. Member using them owes an apology to the House for so doing.

Mr. Martin refused to make an apology.

Mr. Speaker: It is now for the House to deal with the matter, if any further proceedings are to be taken.

No motion being made, Mr. Speaker called upon Mr. McPhillips to resume the debate.

Debate resumed.

DIVISIONS.

Names taken on divisions in Committee of the Whole are not entered on the Journals.

21st March, 1887. Journals, p. 58.

Mr. Speaker POOLEY gave his decision on a point of order raised by Mr. Beaven, as to whether the divisions taken in Committee of the Whole could be entered upon the Journals of the House, as follows:—

There is no provision for taking the names in Committee of the Whole, on division, so that they may be entered as of record on the Votes and Proceedings of the House.

The sessional order provides for the printing of the Votes and Proceedings of the House.

Rule 99 of the Rules and Orders of the House provides that the Rules shall be observed in Committee of the Whole House, so far as may be applicable, except the Rule limiting the number of times of speaking.

The custom of this House for a number of years has been not to take names in Committee of the Whole, and I think rightly, because no provision is made for printing the proceedings in Committee, and the foregoing Rule is also subject to the following variations, viz.: First—That a motion in Committee does not require to be seconded (*May*, page 397, 8th edition); but this is a custom grown into a practice, the propriety of which is sometimes questioned. Second—A motion for the "previous question" is not admitted in Committee, though the principle of this rule is not very clear (*May*, page 397, 8th edition), and a Committee of the Whole House cannot adjourn (*May*, page 402).

The House is not supposed to be informed of any of the proceedings of the Committee until the Bill has been reported (*May*, 526, 8th edition); and the Chairman reports the result of the deliberations of the Committee (*May*, 526, 8th edition), and nothing further; and the report being received becomes a proceeding of the House, and as such is entered on the Journals.

In the House of Commons the proceedings of Committees have been entered in the Journals since the 23rd February, 1839, when the Speaker submitted to the House that arrangements should be made to effect that object, to which the House assented (*May*, 8th edition, 407.) No such provision has been made by this House.

If it is the wish of the House to have the proceedings of Committees of the Whole House printed, provision must be made therefor.

To constitute a division the actual numbers must be counted.

27th February, 1891. Journals, p. 57.

On the 24th inst. the Honourable Senior Member for Vancouver City took exception to a newspaper report that a certain Bill had passed its second reading without a division, the Honourable Member contending that, the yeas and nays having been called, therefore there had been a division.

Mr. Speaker HIGGINS: When the point was first raised I was of opinion that it was well taken; but having since had access to *May* (9th edition), page 311, I find that I was in error.

May says: "When each party have exclaimed according to their opinion, the Speaker endeavours to judge, from the loudness and general character of the opposing exclamations, which party have the majority. As his judgment is not final, he expresses his opinion thus: 'I think the (contents or) ayes have it'; or 'I think the (not contents or) noes have it.' If the House acquiesce in this decision, the question is said to be 'resolved in the affirmative,' or 'negative,' according to the supposed majority on either side; but if the party thus declared to be in the minority dispute the fact, they say, 'The contents (or not contents), the ayes (or noes) have it,' as the case may be; and the actual numbers must be counted by means of what is termed a *division*."

It is plain, therefore, that the mere taking of the "ayes" and "noes" is not a division; and I must reverse my previous ruling and decide that the second reading of the School Bill was carried without a division.

On divisions the bell should be rung. Objections to the correctness of divisions must be taken at once.

Mr. McBride, on a question of privilege, objected to the record in the Votes and Proceedings of yesterday, as follows:— 24th April, 1902. Journals, p. 81.

"And then the House adjourned at 5.59 o'clock p.m., on the ground that the motion was rejected, the vote being 16 for adjournment and 17 against.

Mr. Speaker POOLEY: I think the objection should have been taken last night at the time the vote objected to was taken. I do not think the matter can be raised at this time. It is not a question of privilege.

The Chair was not sustained on appeal.

Mr. Rogers and the Hon. Mr. Prior, having entered the House, objected to the vote just taken, as the division bell had not been rung.

Mr. McInnes raised the point of order: "That the division had been improperly taken, the division bell not having been rung, this being the English practice (*see May*, 337), and binding on the House in the absence of any specific rule."

Mr. Speaker POOLEY: I think the objection well taken. The bell should have been rung before the division. I shall therefore proceed to take the division over again.

The House divided and the Chair was sustained.

MOTIONS.

A motion may be withdrawn with the general consent of the House.

1st February, 1887. Journals, p. 8.

Address in reply to the Speech of His Honour the Lieutenant-Governor.

The fifteenth clause being again read,—

Mr. Orr moved in amendment, seconded by Mr. Ladner,—

That all the words from the beginning of the paragraph down to and including the word "Province," in the second line, be struck out, and the following inserted: "We notice that Your Honour considers that amongst the public measures requiring our consideration is a Bill for the better protection of the timber lands of the Province; but we consider such a measure would have been of greater utility had it been passed before so much of the timber lands had been disposed of."

Mr. T. Davie moved in amendment to the amendment, seconded by Mr. John,—

To strike out all the words after "before," and add: "whilst the former Beaven Government were in power; as such Government allowed the lands to be bought up and monopolized by speculators at $1 per acre until the present Administration advanced them to $2.50."

Mr. T. Davie asked leave to withdraw the motion.

Mr. Beaven objected on the ground that it required the unanimous consent of the House.

Mr. Speaker POOLEY decided that the motion could be withdrawn with the general consent of the House.

Question proposed, and leave granted for the amendment to the amendment to be withdrawn.

Amendment reflecting on the past proceedings of the House out of order.

29th January, 1886. Journals, pp. 7, 8.

Pursuant to Order, the adjourned debate on the consideration of the Address in reply to the Speech of His Honour the Lieutenant-Governor was resumed.

Clause 5 being again read, Mr. Beaven moved in amendment, seconded by Mr. Helgesen,—

That the following words be inserted after the word "important," on the second line: "but we regret exceedingly that Your Honour's Ministers failed to advise you to provide against the employment of Chinese upon this work and upon the Esquimalt Graving Dock, as we consider a great injury has been done to the Province by that important omission."

The debate was adjourned until the next sitting of the House.

1st February—Debate resumed.

Mr. Speaker MARA stated that, objection having been taken to the proposed amendment, he would have to rule the said amendment out of order, as being a reflection on the past proceedings of this House. (*See May's* Parliamentary Practice, pages 336-338, 8th edition.)

The Chair was sustained on appeal.

A motion reflecting upon the actions of His Honour the Lieutenant-Governor in reserving assent to a Bill for the signification of His Majesty's pleasure should not be put to the House.

Hon. Mr. Speaker Eberts gave the following ruling on the point of order raised on the motion moved by Mr. Hawthornthwaite on 21st inst.:— 28th January, 1908. Journals, p. 20.

The following Resolution was moved by the Honourable Member for Nanaimo:—

"Whereas, during the last Session of this House, a Bill was introduced intituled 'An Act to regulate Immigration into British Columbia,' with the object and intent of preventing a further influx into this Province of 'backward races,' notably certain of the subjects of His Imperial Majesty the Mikado of Japan:

"And whereas the said Bill, as amended, successfully passed through the various stages in this Legislature, was supported by the members of the Executive Council at that time present, and was enacted, so far as it lay in the power of the Members of this Legislature:

"And whereas the Honourable James Dunsmuir, Lieutenant-Governor of this Province refused to assent to the passage of said Bill:

"And whereas the Hon. Richard McBride, Premier of British Columbia, has publicly stated that the Lieutenant-Governor was not advised by his Government to refuse to give his assent to said Bill:

"And whereas it has transpired during an investigation by the Deputy Minister of Labour, MacKenzie King, acting under instructions from the Dominion Government, into the causes and nature of the extraordinary immigration of Japanese labourers into this Province, that the Honourable James Dunsmuir, in his private capacity as an operator of coal-mines in this Province, had, on or about the time of the passage of said Bill, entered into a contract with the Canadian Nippon Company, of Vancouver, to procure five hundred Japanese coolies for exploitation in his coal-mines:

"And whereas the passage of the aforesaid Bill would have had the effect of delaying or preventing the coming into this Province of the labourers aforesaid:

"And whereas the Lieutenant-Governor has not acted in this matter in accordance with constitutional practice, in refusing his assent to the enactment of said Bill without the advice of his responsible Ministers, and has further laid himself open to grave suspicion as to the reasons that induced him to refuse his assent to said Bill:

"And whereas his action in these matters must inevitably tend to destroy such confidence as the people of this Province have in Constitutional and Responsible Government:

"Therefore, be it Resolved, That this House emphatically condemns all such unconstitutional proceedings, and hereby appeals to the Governor-General of this Dominion to investigate into all of the aforesaid matters and charges, and should the facts prove to be as stated in this Resolution, dismiss forthwith the Honourable James Dunsmuir from the office of Lieutenant-Governor of the Province of British Columbia."

The Legislature, by well-established precedent, cannot pass a Resolution of censure upon the Lieutenant-Governor for his conduct, except as a preliminary to an address to the Governor-General.

The above Resolution may be regarded as preliminary to a Message to His Excellency, but exception has been taken to it on two grounds: First, that the Resolution is out of order and should not be put to the House, inasmuch as it alleges that His Honour "has laid himself open to grave suspicion as to the reasons that induced him to refuse his assent to the Bill intituled 'An Act to regulate Immigration into British Columbia, 1907,'" and Rule 21 was cited as an authority. The Rule reads as follows:—

"No Member shall speak disrespectfully of Her Majesty nor of any of the Royal Family, nor of the Governor or person administering the Government of Canada, nor of the Lieutenant-Governor of Province, nor shall he use offensive words against any Member of this House, nor shall he speak beside the question in debate. No Member shall reflect upon any vote of the House passed during the current Session, except for the purpose of moving that such vote be rescinded."

During the debate on this point it was strongly urged by the introducer of the Resolution that Rule 21 did not, and should not, in this case apply. In this I cannot for a moment agree. The Rule is a most useful and wise one, and obtains in all Parliaments in the British Dominions, and in this legislative body has always been enforced. The reference I have quoted to His Honour's conduct in reserving his assent is, in my opinion, clearly an infringement of the above Rule, as I shall presently show.

The second point of order was that in reserving his assent to the said Bill his action was constitutional. Since the debate on the Resolution now under consideration, another debate on the Address in reply to the King's Speech arose, and during same it was moved to add the following as clause 15 thereto: "We censure His Honour's responsible Ministers for their action in connection with His Honour's non-assent to the Bill of last Session intituled 'An Act to regulate Immigration into British Columbia'"; and on the 24th inst. the House refused to affirm same, thereby declaring that as between His Honour and his Ministers he had acted constitutionally. Now, when a Bill has passed the House, under and by virtue of section 55 of the "British North America Act," His Honour has three courses open to him: (1) That he assents to same in the King's name; (2) that he withholds the King's assent; (3) that he reserves the Bill for the signification of the King's pleasure.

I will not deal with the second course open to him, as nothing arises on that. The procedure with reference to the third course open to him has been decided by the House. He was therefore constitutionally entitled to reserve the Bill for the signification of the King's pleasure. As it appears, he took that course, and whether advised so to do under instructions from His Excellency or acting on his own discretion, if the occasion was one of urgency, he was acting, in my opinion, within his rights and according to the Constitution, and if so, as the Representative of His Majesty in this Province, it must be assumed that he acted in the public and not in his private interests, and it would therefore be highly improper to impute motives.

For these reasons I am of opinion the Resolution is one that should not be put to this House, and so I declare.

Chair sustained on appeal.

Mr. Oliver moved, seconded by Mr. Eagleson,— 4th February, 1908. Journals, p. 31.

Whereas at the last Session of this House Bill No. 30, entitled "An Act to regulate Immigration into British Columbia," unanimously passed the third reading, but the King's assent thereto was withheld by His Honour the Lieutenant-Governor and the said Bill was reserved for the signification of the pleasure of His Excellency the Governor-General of Canada:

And whereas it appears that His Honour reserved the said Bill without instructions from His Excellency the Governor-General to do so, and at a time when it appears that the Wellington Colliery Company, of which His Honour was and still is president, was under contract to give employment to a large number of Asiatics to be brought into this Province by an immigration company, contrary to the spirit, if not to the letter, of our laws, and contrary to the almost unanimous sentiment of the people of British Columbia against Oriental immigration into the Province:

And whereas, by reason of the above, the confidence of the people of this Province in His Honour the Lieutenant-Governor is greatly impaired, if not wholly destroyed:

Therefore, be it Resolved, That an humble Address be presented to His Excellency the Governor-General of Canada, praying for the removal of the Honourable James Dunsmuir from the office of Lieutenant-Governor of the Province of British Columbia.

Mr. Speaker EBERTS ruled the motion out of order, as infringing on Rule 21.

The Chair was sustained on appeal.

Motion reflecting on Ministers of the Crown.

Mr. Sword moved, seconded by Mr. Kennedy,— 24th February, 1898. Journals, p. 27.

That this House is of opinion that Ministers of the Crown should not lend the assistance of their official titles to the floating of any company, and regrets that the Hon. the Premier and Finance Minister and the Hon. President of the Council allowed their names, in their said official capacity, to be placed on the directorate of "The Dawson City (Klondike) and Dominion Trading Corporation, Limited," and that it is a still greater source of regret that they did not sever their connection with said company, as such directors, as soon as they ascertained the use which was being made of their official titles by the promoters of that company.

Mr. Speaker ruled the motion out of order.

The Chair was sustained on appeal.

A motion must not contain opprobrious reflections on Rulers of countries in amity with Great Britain.

Mr. Hawthornthwaite moved, seconded by Mr. Williams,— 3rd February, 1911. Journals, p. 27.

Whereas Japan recently demanded consideration as a civilized nation:

And whereas the working-class of that nation has shown in various ways their right to consideration from that standpoint:

And whereas the Government of Japan has inflicted the death penalty upon certain Socialist working-men in a futile endeavour to delay or prevent the advance of human freedom:

Therefore, be it Resolved, That this House condemns this action of the ruling powers of Japan, and regrets that Great Britain should ally itself for any purposes with a Government capable of such unspeakable barbarity.

Mr. Speaker EBERTS: The motion refers to certain acts of the Government of Japan and speaks of them as acts of "unspeakable barbarity," and proceeds to condemn the ruling power of Japan for said acts.

May, page 333, 11th edition, lays down the salutary rule that opprobrious reflection cannot be cast in debate on sovereigns and rulers over countries in amity with His Majesty.

As Japan is an ally of and at amity with Great Britain, I think the Resolution offends, and I must rule it out of order.

(*See* further—English *Hansard* Debates, Vol. 237, page 1,639, Vol. 238, page 799; English Parliamentary Debates, Vol. 45, page 891.)

Chair was sustained on appeal.

Motion reflecting upon vote of the House and containing opprobrious terms, irregular.

6th February, 1879. Journals, p. 10.

Mr. Speaker WILLIAMS: The Honourable Member from Cowichan moved:—

"That inasmuch as the 'Assessment Act Amendment Act, 1878,' and the 'School Tax Act Amendment Act, 1878,' are, in their provisions, generally tyrannical and oppressive, and inasmuch as they bear particularly and specially upon the poor and struggling members of the community, who for no other reason than that because of their poverty, they are unable to pay their taxes for the year in advance, are compelled to pay an excessively higher rate of taxation than those more favourably circumstanced:

"Be it therefore Resolved, That this House strongly objects to the continued operation of the Acts in question, and demands that they be repealed or modified so far as to entirely remove the objectionable features referred to in the preamble of this Resolution."

The Honourable Members for Comox and Cariboo objected to the motion, raising the point of order that the motion was contrary to the provisions of Rule 21 of our Rules and Orders, which states, among other things, that "no Member may reflect upon any vote of the House, except for the purpose of moving that such vote may be rescinded."

I am of opinion that the motion is out of order.

Such a motion as the one in question cannot be considered merely as an evasion of the Rules of the House; it goes further than that, for, while reflecting on a vote of the House, it is couched in opprobrious terms.

It says that certain Statutes (therein mentioned) are, in their provisions generally, "tyrannical and oppressive," and asks the House to object to the continued operation of those Acts, and demands their repeal. (*See Lefevre*, 155.)

The motion is uncourteous to the House, and irregular in principle, inasmuch as the Member offering the motion is himself included in and bound by the vote agreed to by a majority of the House. (*See May*, 312.)

The Honourable Member from Cowichan has requested that the preamble be omitted from the motion. Unfortunately, the motion concludes by distinctly referring to the language used in the preamble. In fact, preamble and motion are one in body and in spirit, and the notice of motion was of such a character that, had attention been called to it, I cannot but think it should have been expunged from the motion paper. (*See May*, 259.)

The same question cannot be proposed twice during the same Session.

Mr. Armstrong asked leave to introduce "An Act to amend the 'Constitution Act, 1871,' and amendments thereto." 18th April, 1882. Journals, p. 49.

Mr. Speaker WILLIAMS ruled the Bill out of order, on the ground that the House had already expressed its opinion on the subject during the present Session (viz., on March 23rd, *see* Journals, pages 25, 26), and he declined to put the question.

Same question cannot be twice offered.

Mr. Drummond moved, seconded by Mr. J. W. Williams,— 23rd February, 1881. Journals, p. 23.

That, in the opinion of this House, it is desirable that the number of members of the Managing Boards of the Royal Hospital of the City of Victoria, City of New Westminster, and Nanaimo should be changed, so as to consist of two members appointed by the Lieutenant-Governor in Council, and that two be elected by the contributors who pay an annual subscription of two dollars and fifty cents, and shall have a vote and be eligible to be elected as directors of said Board; and that the Mayor of the City of Victoria, New Westminster, and Nanaimo shall be ex-officio Chairman and a member of the Board; the members elected by the subscribers shall be for the term of one year; those appointed by the Government shall act on their behalf until their appointments have been cancelled.

Mr. Speaker WILLIAMS stated that as a similar Resolution had been introduced and negatived this Session, he would leave it to the House to say whether the motion was substantially the same as the last or not; according to the practice laid down in *May*, page 306.

The House decided in the negative.

The rule that the same question cannot be proposed twice applies to Committees of the Whole.

Pursuant to Order, the House again went into Committee of the Whole on Bill (No. 11) intituled "An Act to amend the 'Public Schools Act, 1879.'" 17th January, 1884. Journals, p. 37.

Upon Mr. Speaker resuming the Chair, Mr. Wilson, Chairman of the Committee, reported progress and asked leave to sit again; also that a point of order had arisen, upon which the direction of Mr. Speaker was desired.

Mr. Speaker MARA directed the Chairman that a new clause cannot be received in Committee of the Whole if substantially the same as another clause previously negatived.

Same matter dealt with this Session.

24th February, 1890. Journals, p. 34.

Mr. Semlin moved—That Bill (No. 14) intituled "An Act to amend the 'Municipal Act, 1889,'" be read a second time now.

Mr. Speaker HIGGINS ruled the motion and the Bill out of order, as the principle involved in the clauses contained in the Bill had already been considered and dealt with this Session.

Similar question twice offered.

30th March, 1893. Journals, pp. 102, 114.

On the consideration of the Report on Bill (No. 34) intituled "An Act to amend the 'Municipal Act, 1892,'" Mr. Grant moved—

To amend section 119 of the "Municipal Act, 1892," by striking out, in line three, the words "at least three-fifths," and insert in lieu thereof the words "a majority," and the motion was carried.

On 6th April, on the further consideration of the Report, Mr. Beaven moved to amend section 119, as amended by the motion above mentioned, as follows:—

Section 119 of the "Municipal Act, 1892," and section of Bill No. 34 are hereby repealed, and in lieu thereof the following shall be read:—

"119. No by-law to which the assent of the electors is necessary before the final passage thereof shall become law or of any effect unless the following number of persons qualified by this Act cast their ballots in favour thereof:—

"(*a.*) If eighty per cent. or more of the qualified electors cast their ballots for or against the by-law, a majority of such electors voting in favour thereof shall be necessary:

"(*b.*) If thirty-five per cent. or more, up to eighty per cent., of the qualified electors cast their ballots for or against the by-law, three-fifths of such electors voting in favour thereof shall be necessary:

"(*c.*) If only less than thirty-five per cent. of the qualified electors cast their ballots for or against the by-law, two-thirds of such electors voting in favour thereof shall be necessary."

Mr. Speaker HIGGINS ruled the motion out of order, as being similar in principle to a motion already passed upon by the House, viz., the motion first above mentioned.

4th January, 1895. Journals, p. 61.

Upon the Order for the third reading of Bill (No. 3) intituled "An Act to confer Limited Civil Jurisdiction upon Stipendiary Magistrates and Police Magistrates," being called,—

Mr. Helmcken moved, seconded by Mr. Walkem,—

That the Order for the third reading of the Bill be discharged, and the Bill recommitted for the purpose of considering the following new clause:—

"The Magistrate may, in any case, allow the successful party counsel or attorney's fees not exceeding ten dollars."

Objection was taken to the motion, as being the same as one already negatived this Session.

Mr. Speaker ruled the motion in order.

The Chair was sustained on appeal.

Same matter already dealt with during same Session.

Mr. Watt moved, seconded by Mr. Kellie,— 1st March, 1894. Journals, p. 71.

Resolved, That while this House would welcome a substantial reduction in the import duties on all classes of goods—not luxuries—consumed but not manufactured or produced in the Province, it desires especially to urge on the Dominion Government that machinery and appliances of all kinds used in the reduction of ores or in general mining, whether or not wholly or in part only manufactured in the Dominion, should be admitted free of all duty.

That His Honour the Lieutenant-Governor be respectfully requested to send a copy of this Resolution to the Hon. Minister of Finance at Ottawa.

Acting Speaker, Mr. Martin, ruled the motion out of order, under the authority of Rule 47—the same question having been already dealt with by the House during the present Session, viz., on 6th February.

Same question already passed upon during same Session.

On the third reading of Bill (No. 16) intituled "An Act respecting the Songhees Indian Reserve," Mr. J. A. Macdonald moved, seconded by Mr. Munro,— 14th March, 1905. Journals, p. 58.

To strike out all the words of the Resolution after the first word "That," and insert the following: "in the opinion of this House, the Government should immediately procure a new reserve for the Indians now on the Songhees Indian Reserve, which new reserve should be satisfactory to the said Indians and to the Dominion Government, and facilitate the removal and settlement of said Indians upon said new reserve; and that the question of the disposition of the lands now forming the Songhees Indian Reserve be not now considered, but that the same be dealt with by this House at the Session of the same following the removal of said Indians as aforesaid, in a manner which will protect the City of Victoria in the matter of park lands; give said city control of part of the southern end of said reserve for wharves and other harbour facilities; provide terminal facilities for transportation companies and conserve the general interests of the Province in the premises."

Mr. Speaker POOLEY ruled the motion out of order, on the ground that the House had already expressed its opinion on the same question on the instant.

On the second reading of Bill (No. 90) intituled "An Act to impose certain Restrictions upon the Granting of Liquor Licences in Rural Districts" being called,— 13th April, 1896. Journals, p. 141.

Mr. Speaker ruled that the Bill was the same in principle as Bill No. 80, which the House had ordered to be read a second time this day six months, and therefore out of order.

Mr. Booth appealed from the ruling. The Chair was sustained.

3rd May, 1901. Journals, p. 121.

The Hon. Mr. Eberts moved—That section 12 be repealed, and the following substituted therefor:—

"12. On the third Tuesday in June, A.D. 1901, there shall be a sitting of the Full Court at the City of Vancouver for the hearing of all appeals or other matters, and the disposal of all business which may be lawfully brought before it. Any notice of appeal already given for the sittings of the Full Court which, under section 15 of chapter 20 of the Statutes of 1899, should have been held at the City of Vancouver in March and May, A.D. 1901, shall be deemed good and sufficient notice of appeal for said sittings in June, A.D. 1901."

Mr. Curtis moved in amendment to the amendment—

That all the words after the first word be struck out, and the following inserted instead thereof: "a sitting of the Full Court shall be held on the last Tuesday in October in each year at the City of Nelson."

Mr. Speaker BOOTH ruled the motion out of order, as being similar in principle to the amendment of the Hon. Member for Nelson, upon which the House has already passed.

Mr. Curtis appealed from the ruling of the Chair.

The Chair was sustained on division.

22nd August, 1900. Journals, p. 161.

The Report on Bill (No. 12) intituled "An Act to incorporate the Vancouver and Westminster Railway Company" was considered.

On the motion for the third reading of the Bill, Mr. Curtis moved, seconded by Mr. Gilmour,—

That the Bill be not now read a third time, but be recommitted, with instructions to introduce as an amendment thereto in Committee the following new section:—

"(*d.*) Notwithstanding anything hereinbefore contained, the Company shall not have the right to purchase, lease, or use any lands belonging to the Province until it has entered into a contract with the Provincial Government with respect to such right, and upon such terms and in such manner as the Lieutenant-Governor in Council may prescribe."

Mr. Speaker ruled the motion out of order, the House having already (by the last vote) expressed its opinion on the same matter.

Order called for the House to again resolve itself into a Committee of the Whole on the motion of Mr. Garden, seconded by Mr. Tatlow, to adopt a Resolution respectfully calling on the Dominion Government to pass the Natal Act respecting immigrants.

Mr. Speaker ruled the motion out of order, as being substantially the same as a motion already resolved in the affirmative this Session.

The Hon. Mr. Semlin moved, seconded by the Hon. Mr. Henderson.— 4th January, 1900. Journals, pp. 4, 5

Resolved, That the Speech of His Honour the Lieutenant-Governor be taken into consideration on Monday next.

Negatived.

The Hon. Mr. Semlin moved, seconded by the Hon. Mr. Cotton.—

That the House, at its rising, do stand adjourned until two o'clock on Monday next.

Negatived.

Mr. Turner moved, seconded by Colonel Baker.—

That the House, at its rising, do stand adjourned until 2 o'clock on Tuesday next.

A point of order having arisen on the relevancy of the debate, and the Speaker having decided same to be in order, Mr. Higgins appealed from the Chair.

The Chair was not sustained.

Debate resumed.

The Hon. Mr. McKechnie moved in amendment, seconded by Mr. Kidd.—

That all the words after "till" be struck out, and that the words "three o'clock on Monday next" be inserted in lieu thereof.

Objection being taken to the motion that it was the same question upon which the House had passed an opinion this day,—

Mr. Speaker ruled the motion in order.

Mr. Higgins appealed from the Chair.

The Chair was sustained.

Same matter already dealt with the same Session.

Mr. Williams moved, seconded by Mr. Semlin,— 28th April, 1900. Journals, p. 138.

Whereas the attention of the members of this House has been called to an advertisement in the *London Times*, issued on 5th April, instant, by the "Klondyke and Columbian Gold Fields, Limited," the "Dawson City and Columbian Trading Corporation," with the "Klondyke and Columbian Passenger Agency," in which the following clauses appear:—

"The matter of passengers on Pacific coast, the voyager is ignorant of the best steamer on which to take his passage. In a strange country, he is at the mercy of the first canvasser. In a strange town, he is in the hands of the storekeeper, who undertakes to provide him with a miner's outfit for an exorbitant sum, omitting many of the most important and more expensive necessaries. He is pressed into buying provisions utterly inadequate and unsuitable for a year's sojourn in a gold-mining country. He is plagued by Customs officials and without experience and knowledge, is generally at the mercy of hacks all round.

"All Yukoners passengers will be met by the officials of the Klondyke and Columbian Passenger Agency, who will take them in charge to Victoria.

"All Yukoners passengers will receive their outfit and personal property packed by experienced packers.

"From Victoria to Dyea by Washington and Alaska Steamship Company. Dyea to Lake Lindeman by Chilkoot Railroad and Transport Company.

And whereas the Hon. J. H. Turner, Premier and Finance Minister, and Hon. C. E. Pooley, President of the Council, are local directors of

the "Klondyke and Columbian Gold Fields, Limited," and the "Dawson City and Dominion Trading Corporation, Limited," and as such their names appear in said advertisement:

And whereas many of the allegations contained in said advertisement are untrue and charges false, and are a reflection against the honesty and business integrity of the people and merchants of our Province not warranted by facts:

Therefore, be it Resolved, That this House regrets that the allegations and statements contained in said advertisement, and methods thereby adopted, should be endorsed and countenanced by the Premier and President of the Council, and that they should allow their names to appear in such advertisement.

Mr. Speaker BOOTH: The gist of the Resolution is practically the same as a former Resolution, the debate of which was laid over for six months. I think the motion is out of order.

The Chair was sustained on appeal.

Motions to suspend Standing Rules, etc., with respect to Private Bills require notice.

21st March, 1883. Journals, p. 41.

The Honourable Mr. Smithe, seconded by the Honourable Mr. Davie, asked leave to make a motion, without notice, for the purpose of rescinding the Resolution for the third reading and passing of Private Bill (No. 17) intituled "An Act to authorize Robert Dunsmuir and Wadham Neston Diggle to construct a Railway to connect the South Wellington Wharf at Departure Bay, and the South Wellington and Wellington Railways."

Mr. Dunsmuir moved, seconded by Mr. Martin, the suspension of the Standing Rules and Orders, in order to move that the Resolution for the third reading and passing of the said Bill (No. 17) be rescinded.

Mr. Speaker MARA stated that although Rule 49 permitted any motion to be made, by unanimous consent of the House, without notice, where Private Bills were affected, Rules 48 and 85 which require due notice to be given, etc., should be strictly adhered to.

I am of opinion that motions for the suspension of the Standing Rules and Orders, to enable the House to deal with Private Bills, or resolutions affecting the same, require previous notice.

Motion to suspend Rules, etc., without notice requires unanimous consent; after notice, general consent governs.

28th March, 1888. Journals, pp. 68, 71.

Colonel Baker moved, seconded by Mr. Bole,—

That the Standing Rules and Orders of the House be suspended, in order that the prayer of the petition presented by Samuel Greer may be heard, and that leave be granted him to present a petition for a Private Bill.

There being one dissentient voice, a point of order arose: "Whether, upon the consideration of a notice of motion for the suspension of the Standing Orders, of which due notice has been given, a single Member of the House has the power of defeating the motion by objecting to its passage."

On the 4th April, Mr. Speaker POOLEY decided—

That, by Rule 49, a motion may be made by unanimous consent of the House, without previous notice.

By Rule 85, except in cases of urgent and pressing necessity, no motion may be made to dispense with any Standing Order relative to Private Bills without due notice.

By Rule 48, two days' notice of motion is required.

May, 8th edition, pages 290 and 291: All questions before the House are decided by the majority of votes.

If a motion be made to suspend the Standing Orders, or any other purpose, without notice, any single Member can successfully object to its passage, as the consent of the House must be unanimous. When motion before the House, after due notice, either for the suspension of the Standing Orders or for any other purpose, the majority of votes in the House governs, and no single Member can by objection defeat the motion.

Motion to suspend Rules requires notice.

The Private Bills Committee reported as follows:— 14th February, 1900. Journals, p. 65.

MR. SPEAKER:

Your Select Standing Committee on Private Bills and Standing Orders beg leave to report as follows:—

That the Standing Orders in connection with No. 10, Petition of Western Telegraph and Telephone Company, have not been complied with, and recommend that the prayer of the petition be not granted.

All of which is respectfully submitted.

R. F. GREEN,
Chairman.

Mr. Green moved—That the Report be received.

Mr. J. M. Martin moved in amendment, seconded by Mr. McPhillips,—

That the Report of the Committee on Private Bills and Standing Orders, in so far as it relates to the petition of the Western Telegraph and Telephone Company, be not now received, but that the Standing Orders of this House be suspended to allow the Bill to be introduced, on payment of double fees.

Mr. Pooley objected to the suspension of the Rules and Orders without notice.

Mr. Speaker FORSTER ruled that the motion could not be put, in face of the objection; the usual notice must be given. (*See* Speakers' Decisions, page 100, and Rule 48.)

The debate on the original motion was adjourned for three days.

General debate on motion to adjourn the House sometimes allowed on questions of public importance or urgency.

Mr. Speaker HIGGINS gave his decision on the following point of order, viz.: "Whether an Hon. Member, upon a motion to adjourn, can discuss a question that has been already disposed of by the House, without the consent of the House," as follows:— 18th April, 1890. Journals, p. 119.

There is nothing in our Rules and Orders that bears on the point. I am therefore forced to resort to *May* for authority. *May*, 9th edition, page 356, says:—

"The adjournment of the House had often been moved, in putting questions, but such a course was generally reserved for occasions of urgency, and, if otherwise used, was met by the House with impatience and disfavour, and by grave remonstrances from the Chair, and, at length, the inconvenience became so serious that the following Standing Order was made on the 27th November, 1882."

This Order requires, among other things, that a motion for an adjournment of the House shall not be made until all the questions on the notice paper have been disposed of; and no such motion shall be made before the Orders of the Day, or notices of motion, have been entered upon, except by leave of the House, unless forty Members shall thereupon rise in their places and support the motion.

May (page 357) proceeds: "When Members have since availed themselves of this Standing Order, the Speaker has desired them to state, in writing, the matter of public importance which they desire to discuss, before the pleasure of the House is taken; and it is for the House itself to judge whether the matter so stated be of such urgent public importance as to warrant the setting-aside of the other business appointed for the day in favour of a motion for adjournment." * * * "If less than forty Members rise in their places in support of the adjournment, the House will proceed at once to the Order of the Day, or other business, unless ten Members should then rise and claim a division."

I therefore rule that the Hon. Senior Member for Yale must state the matter of public importance he desires to discuss, and that it is for the House to say whether the discussion shall proceed.

Practice when adoption of Report from Committee of the Whole is negatived. Rescinding a negative note.

8th April, 1892. Journals, p. 101.

Bill No. 35 reported complete with amendments.

Motion to adopt the report negatived.

Mr. Speaker HIGGINS: With respect to the question asked by the Hon. Member for Westminster (Mr. Kitchen) regarding Bill No. 35, the Report of the Committee of the Whole having been negatived on a motion to adopt, the Bill disappears from the Orders of the Day. The only means by which a negative vote can be revoked is by proposing another question, similar in its general purport to that which has been rejected, but with sufficient variance to constitute a new question; and the House will determine whether it is substantially the same question or not. (*May*, 9th edition, page 328.)

Expressing abstract opinion.

14th February, 1879. Journals, p. 15.

On the motion of Mr. McGillivray being called, "That, in the opinion of this House, it is expedient to establish a Registry Office at New Westminster, under the provisions of the 'Land Registry Ordinance, 1870,' for the convenience of the inhabitants of the Mainland,"—

Mr. Speaker WILLIAMS gave his opinion that though the motion might be considered objectionable, still it should be considered as intended to lead up to the expression of an abstract opinion, and was therefore, strictly speaking, in order.

The Hon. Mr. Walkem then moved in amendment, seconded by the Hon. Mr. Humphreys, to add at the end thereof the following words: "when the circumstances of the Province may warrant it."

Proposed amendment put and carried.

Motion, as amended, put and carried.

NOTE.—Similar motions to the above would now be ruled out of order under new Rule 118.

Motions expressing opinion that "Constitution Act" should be amended in a particular manner are mischievous and should be discouraged.

15th February, 1881. Journals, p. 16.

Moved by Mr. Smithe, seconded by Mr. Pimbury,—

That in view of the growing importance of the Electoral District of Cowichan, the increase of population, as shown by the list of voters last published, and the proportionately large amount of revenue paid, as compared with other agricultural districts of the Island, it is, in the opinion of this House, entitled to be represented in the Legislature of the Province by two Members; the "Constitution Amendment Act, 1879," notwithstanding.

Mr. Speaker WILLIAMS: This motion is to obtain an expression of opinion on a matter over which the Crown has sole control, viz., the amendment of the Constitution, and to override the provisions of an Act passed in the Session of 1879. All amendments to the Constitution must emanate from the Ministers of the Crown, and they are responsible to Parliament therefor; and I think motions suggesting amendments, which could not be offered by Private Members, and for which the Ministers of the Crown are alone responsible, very mischievous, and they should be discouraged. But, bearing in mind my decision on a similar question (*vide* Journals, 1879, page 25), I shall follow the rule there laid down and leave the matter to be dealt with entirely by the House.

Mr. Ash moved in amendment, seconded by Mr. Harris,—

That the word "Cowichan," in the second line, be struck out, and the words "New Westminster" substituted; and that all the words after the word "paid," in the fourth line, be struck out, and in lieu thereof be added the words "it is, in the opinion of this House, desirable that a change be made in the 'Constitution Act' to provide for the representation of the district by three Members, and that this may be conveniently effected by including the existing Electoral District of Kootenay within the limits of the Electoral District of New Westminster."

Leave to withdraw the amendment was refused.

Amendment put and lost.

Mr. Vernon moved in amendment, seconded by Mr. Mara,—

That all the words after "That" be struck out, and the following substituted: "in the opinion of this House it is desirable that at the next Session the question of representation should be dealt with, with a view of equalizing, as far as possible, the various Provincial interests."

Amendment put and carried.
Original resolution, as amended, put and carried.
(*See* Rule 118.)

A motion seriously affecting a Government Bill to confirm an arrangement entered into between the Provincial and Dominion Governments and third parties ruled out of order.

10th May, 1883. Journals, p. 79.

On the Order being called for the Committee on Bill (No. 48) intituled "An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province," and the question being proposed "That I do now leave the Chair?"

Mr. Beaven moved, seconded by Mr. Helgesen,—

That this House is of opinion that the necessary provision should be inserted in Bill (No. 48) intituled "An Act relating to the Island Railway, the Graving Dock, and the Railway Lands of the Province," so as to prevent the employment of Chinese in the construction of the public works referred to therein, as a modicum of benefit to the Province for the enormous concessions gratuitously made to the Dominion Government.

Mr. Speaker MARA ruled the motion out of order.

A motion dealing with a matter which is the subject of judicial adjudication ruled out of order.

17th February, 1898. Journals, pp. 13, 14.

Pursuant to Order, the adjourned debate on the Address in reply to the Speech of His Honour the Lieutenant-Governor was resumed.

Mr Macpherson moved to add after the word "thoughtfulness," on the fifth line, the words following: "and this House is of the opinion that Ministers of the Crown should not lend the assistance of their official titles to the floating of any company, and regrets that the Hon. the Premier and Finance Minister and the President of the Executive Council allowed their names, in their said official capacity, to be placed on the directorate of 'The Dawson City (Klondike) and Dominion Trading Corporation, Limited,' and that it is a still greater source of regret that they did not sever their connection with said company, as such directors, as soon as they ascertained the use which was being made of their official titles by the promoters of that Company."

Mr. Speaker HIGGINS gave the following ruling:—

Objection having been made by the Chair to the discussion by the Hon. Second Member for Vancouver (Mr. Macpherson) of a matter which is the subject of judicial action, I have been asked by the Hon. Third Member for Vancouver (Mr. Cotton) to furnish a written decision in support of my ruling that the motion was out of order.

May, 10th edition, page 264, says: "A matter whilst under adjudication by a Court of law should not be brought before the House, by a motion or otherwise."

Same authority, page 308: "A Member, while speaking to a question, may not * * * refer to matters pending a judicial decision."

Same authority, page 319: "Matters awaiting the adjudication of a Court of law should not be brought forward in debate." This rule was

observed by Sir R. Peel and Lord J. Russell, both by the wording of the Speech from the Throne and by their procedure in the House, regarding Mr. O'Connell's case, and has been maintained by rulings from the Chair.

I think that the object of the practice as laid down in *May* is to prevent the undue influencing of the public mind for or against the parties to an action pending litigation. It is, however, open to any Hon. Member to move, on notice, a substantive resolution expressive, in general terms, of the opinion of the House as to the advisability of Ministers of the Crown connecting their names with public companies. This resolution may be discussed and disposed of without referring to the matter awaiting judicial action, or prejudicing the public mind in either direction.

A further attempt to bring the same matter under discussion was made on 24th February, 1898 (*see* Journals, page 27), and was promptly ruled out of order.

On appeal from the ruling of the Chair, the Chair was sustained.

A motion attempting to override a Statute of the Province cannot be moved.

Mr. Oliver moved, seconded by Dr. King,— 11th December, 1903. Journals, p. 28.

That an Order of the House be granted directing the Deputy Provincial Secretary to return the ballot-boxes used in the late Provincial election in the Electoral District of Fernie to the Returning Officer for that district, for the purpose of producing the said ballot-boxes before the County Court Judge, so as to allow the recount applied for to be proceeded with.

Mr. Speaker POOLEY ruled the motion out of order, as being a direct attempt to override the provisions of a clause in a Statute of the Province, viz., section 154 of the "Electorates Act."

Mr. Oliver appealed from the ruling of the Chair.

The Chair was sustained on appeal.

An amendment entirely altering the meaning and object of the original motion can be moved.

The adjourned debate on the motion of Mr. Cotton, as follows:— 24th February, 1898. Journals, p. 29.

"That in the opinion of this House the double taxation involved in the present system of taxing mortgages is an injustice."

And the amendment thereto moved by Major Mutter, as follows:—

"To amend the Resolution by striking out all the words after 'House,' and inserting in place thereof the following: 'the personal-property tax on moneys included in mortgages and taxed to the mortgagee is not double taxation'"—

was resumed.

A doubt having been expressed as to the admissibility of the amendment,—

Mr. Speaker HIGGINS gave the following ruling:—

May, 10th edition, page 270: "3. The general practice in regard to amendments is explained on page 275; but here such amendments only

will be mentioned as are intended to evade an expression of opinion upon the main question, by entirely altering its meaning and object. This is effected by moving the omission of all the words of the question after the words 'that' at the beginning, and by the substitution of other words of a different import. If this amendment be agreed to by the House, it is clear that no opinion is expressed directly upon the main question, because it is determined that the original words 'shall not stand part of the question'; and the sense of the House is afterwards taken directly upon the substituted words, or practically a new question. There are many precedents of this mode of dealing with a question; but the best known in Parliamentary history are those relating to Mr. Pitt's administration in the Peace of Amiens, in 1802. On the 7th May, 1802, a motion was made in the Commons for an address 'expressing the thanks of this House to His Majesty for having been pleased to remove the Right Hon. W. Pitt from his councils'; upon which an amendment was proposed and carried, which left out all the words after the first and substituted others in direct opposition to them, by which the whole policy of Mr. Pitt was commended. Immediately afterwards an address was moved in both Houses of Parliament condemning the Treaty of Amiens in a long statement of facts and arguments; and in each House an amendment was substituted whereby an address was resolved upon which justified the Treaty. This practice has often been objected to as unfair, but the objection is unfounded, as the weaker party must always anticipate defeat, in one form or another * * *."

May, 10th edition, page 275: "The object of an amendment may be to effect such an alteration in a question as will * * * present to the House an alternative proposition, either wholly or partially opposed to the original question."

The authorities quoted seem to be conclusive, and I rule that the amendment is in order.

Motion anticipating debate in an Order of the Day. A motion anticipating the discussion on a Bill standing on the Order paper dealing with the subject-matter of the proposed motion is out of order.

25th January, 1904. Journals, p. 60.

Mr. Henderson moved, seconded by Dr. King,—

That the attention of this House having been called touching the payment of public money to Archibald McDonald, sitting in this House for the Electoral District of Lillooet, for services rendered in connection with the public works of this Province; that all matters connected therewith be referred to a Select Committee consisting of the Hon. the President of the Council, Mr. Gifford, and the mover, and that said Committee be directed to inquire into the facts, to summon witnesses, to call for documents and records touching the qualifications or disqualifications of the said Archibald McDonald to be elected or to sit in this House as a Member thereof for said Electoral District, and report the same to this House.

Mr. Speaker POOLEY ruled the motion out of order, on the ground that it anticipated the motion for the second reading of Bill (No. 41) intituled "An Act to remove Doubt as to the Validity of the Election of a Member to represent the Lillooet Electoral District in the Legislative Assembly,"

now standing on the Orders of the Day for second reading, said Bill including and dealing with the subject proposed to be dealt with by the motion. (*See May*, 10th edition, page 265.)

Motions expressing opinions recommending expenditure of public money should not be moved.

Mr. Oliver moved, seconded by Mr. Jones,— 17th February, 1908.

That whereas the revenue available to municipalities generally is inadequate for the requirements of the municipalities: Journals, p. 52.

Therefore, be it Resolved, That in the opinion of this House it is desirable to increase the revenue-producing power of the municipalites by allowing to the municipalities the tax upon personal property now collected by the Government.

Mr. Speaker Eberts ruled the motion out of order under Rule 118.

Mr. Oliver moved, seconded by Mr. Jones,—

That in the opinion of this House it is advisable to provide text-books for use in the public schools of British Columbia at the cost of the Province.

Mr. Speaker EBERTS ruled the motion out of order under Rule 118.

ORDERS OF THE DAY.

The motion to "Proceed to the Orders of the Day" is not debatable and no amendment can be moved thereto.

6th May, 1902. Journals, p. 101.

The Hon. Mr. Prentice moved—That the House proceed to the Orders of the Day.

Mr. Oliver moved, seconded by Mr. Munro,—

That all the words of the motion after the first word, "That," be struck out, and the following words inserted in lieu thereof: "an Order of the House be granted for a Return of a copy of the agreement entered into between the Government of British Columbia and McLean Bros. for the construction of the proposed Coast-Kootenay Railway."

A debate arose.

WEDNESDAY, 7th May.

Mr. Curtis moved, seconded by Mr. Tatlow,—

That the amendment moved by the Honourable Member for Delta be amended by adding thereto the following words: "and also a copy of all offers previously made by Messrs. McLean Bros. to the Government for the construction of the railway mentioned in the contract."

Mr. Speaker POOLEY: The amendment is out of order at this stage. It cannot be moved until the House has resolved that the words proposed to be struck out shall not stand part of the question. (*See May*, 10th edition, page 284.)

Question proposed—"Shall the words proposed to be struck out stand part of the question?" and *Resolved* in the affirmative.

Mr. Hawthornthwaite moved, seconded by Mr. E. C. Smith,—

That the following words be added to the motion of the Minister of Finance at the end thereof, viz.:—

"Provided that the adjourned Committee of the Whole on the Message of His Honour the Lieutenant-Governor of 5th May, transmitting Bill (No. 75) intituled 'An Act respecting certain Railway Agreements,' be not taken up until a copy of all offers made by Messrs. McLean Bros., and all other persons or corporations, to the Government for the construction of the proposed Coast-Kootenay Railway be laid on the table."

Mr. Speaker POOLEY: I must rule the motion out of order. The motion to proceed to the Orders of the Day is considered equivalent to a motion for the "previous question," and no amendment can be made thereto. (*See Bourinot*, Parliamentary Procedure, 2nd edition, page 397.)

Question proposed and *Resolved*, "That the House proceed to the Orders of the Day."

26th May, 1902. Journals, p. 129.

The Hon. Mr. Prentice moved—That the House proceed to the Orders of the Day, beginning with "Public Bills in the Hands of Private Members."

Mr. McBride raised the point of order that the motion could not be made without suspending the Rules and Orders, and proceeded to debate the question.

Mr. Speaker POOLEY: I rule the motion to be in order, and that the same must be put without amendment or debate. The point has already been decided. (*See* previous ruling.)

The Chair was sustained on appeal.

PETITIONS.

Must be properly addressed (1887, Journals, pages 26, 89).
A copy will not be received (1887, Journals, page 26).
Asking for public aid or relief will not be received (1887, Journals, pages 31, 57).
Not signed by petitioners. Not addressed to the House.

6th April, 1888. Journals, p. 75.

A petition from Edward Gould and Louis Gould (*re* claim to land in New Westminster District) was ruled out of order, the same not being addressed to the House and not being signed by the petitioners.

Motion to receive is not debatable.

8th March, 1892. Journals, p. 44.

Mr. Croft presented a petition from "The Esquimalt Waterworks Company," opposing Private Bill of Victoria City to amend "Victoria Waterworks Act."

The petition was read, and a point of order having arisen as to the right to debate the motion to receive the petition,—

Mr. Speaker HIGGINS ruled that the motion was not debatable under Rule 114.

The petition was then received.

25th April, 1902. Journals, p. 84.

The petition from Jno. J. Downey and others, residents of the Electoral District of North Victoria, *re* filling vacancy in that Electoral District, was read.

On the motion to receive same, Mr. McBride proceeded to debate the matter, when a point of order was taken, that the motion was not debatable.

Mr. Speaker POOLEY: I must support the objection raised. The motion is not debatable, and has been so held by previous Speakers.

Petition received.

Without signature or prayer and badly mutilated.

1st February, 1900. Journals, p. 42.

Mr. Bryden presented a petition from Thomas Jones and others, Wellington Mine employees.

Ruled out of order on the ground that the petition contained no prayer, was in a very mutilated condition, and that the signatures were not written upon the petition itself, but pasted on. (*May*, page 496.)

Not addressed to the House.

10th August, 1900. Journals, p. 128.

The petition from the Phœnix Board of Trade (No. 14A), supporting "Grand Forks and Kettle River Railway" Bill, was ruled out of order, the same not having any address.

6th March, 1902. Journals, p. 11.

Mr. Houston presented a petition from the Nelson Board of Trade, *re* mineral exhibit at the St. Louis Exposition.

Ruled out of order, the same not being addressed to the House.

The Hon. the Premier presented a petition from Wm. Allen and others, residents of Fernie, in favour of "Eight-hour Law." 2nd February, 1900. Journals, p. 47.

Ruled out of order, as the petition was not addressed to the House and contained no prayer.

Asking refund of Private Bill fees.

The petition from the Corporation of the City of Vancouver, *re* refund of Private Bill fees, was ruled out of order. 5th February, 1900. Journals, p. 49.

No prayer. In mutilated condition. Signatures pasted on. Vague and meaningless.

Objection being taken by Mr. Martin that certain petitions were out of order, on the grounds:— 1st February, 1900. Journals, p.

1. That the petitions were vague and meaningless: 20th August, 1900. Journals, p. 151.
2. That the petitions contained alterations.

Mr. Speaker BOOTH: It is quite competent for any person to petition the House, and the question as to whether any relief is granted or the prayer of the petition considered is a matter for the House to deal with.

On the second point, I think the practice of the House has been not to enforce Rule 112 too strictly with regard to "alterations," if the petition was otherwise unobjectionable. I will therefore hold the petitions to be in order, and leave it to the House to say if it wishes Rule 112 to be more strictly enforced in the future.

Mr. Martin appealed from the decision of the Chair.

The Chair was sustained.

The petitions were then received.

Cannot be received if it contains no prayer.

The petition from Robert T. Williams, presented yesterday, was ruled out of order, on the ground that it contained no prayer. 4th April, 1894. Journals, p. 130.

From a company, and not under its corporate seal, ruled out.

Mr. Rogers presented a petition from "The Vancouver Gas Company, Limited," opposing Vancouver City Bill. 19th December, 1894. Journals, p. 38.

Ruled out of order, for want of the corporate seal.

Involving expenditure of public money.

Mr. McGregor presented a petition from Thos. Kitchin and others, *re* railway from Glenora to Teslin Lake. 25th April, 1898. Journals, p. 131.

Mr. Semlin objected to the petition being received, as leading up to the expenditure of public money.

Mr. Speaker BOOTH: Neither *May* nor our Rules and Orders place any restriction on the right to petition the House on any subject that is not in violation of the Rules of the House and Practice of Parliament.

It is, therefore, for me to consider in what way (if at all) this petition violates the Rules of the House, etc.

The petition states in effect the desirability of prompt steps being taken with reasonable diligence to provide for the commencement of a line of railway from Glenora to Teslin Lake, and concludes with the following prayer: "Your petitioners, therefore, humbly pray that the above-mentioned matters may receive your early consideration, and your petitioners, as in duty bound, will ever pray."

The petition has been skillfully drawn to meet the very objection that is taken to it.

No public aid is directly or indirectly asked for, the prayer being limited to a request to the House to give early consideration to the matter referred to.

I am of opinion that the petition is more properly classed as one in respect of a general measure of public policy, and does not require the recommendation of the Crown to enable the same to be presented and received. (*See May*, 10th edition, 495, 531; *see also* Speakers' Decisions, page 143, where a resolution was passed to consider the advisability of offering a reward for the discovery of a new goldfield, but when the Committee of the Whole went further and reported recommending that the Lieutenant-Governor in Council should offer a reward of $5,000, the report was promptly ruled out of order.)

The petition was received and *Ordered* to be printed.

11th May, 1898. Journals, p. 158.

Mr. Bryden presented a petition from D. R. Haggart and others, residents of Nanaimo, *re* railway from Glenora to Teslin Lake.

Mr. Semlin objected to the reception of the petition, on the ground that the expenditure of public money was involved in the same.

Mr. Speaker BOOTH: The petition is similar to several others already received by the House, and which I have held to be in order.

The Chair was sustained on appeal.

A petition will not be received, the prayer of which involves the expenditure of public money.

22nd March, 1898. Journals, p. 72.

Mr. Hume presented a petition from W. H. Brandon and others, residents of Slocan City, *re* increased representation in West Kootenay District.

Mr. Speaker BOOTH: The prayer of this petition is as follows:—

"Your petitioners would therefore pray that a redistribution be made, whereby West Kootenay District shall be allowed a representation of at least five members."

Increased representation means increased expenditure, and the granting of the prayer of the petition would involve an expenditure of public money, for which provision would have to be made in the Estimates.

The petition, therefore, cannot be received.

Mr. Semlin appealed from the decision of the Chair.

The Chair was sustained (6th April, *see* Journals, page 108.)

Mr. Green presented a petition from H. R. Jorand and others, residents of Slocan Lake District, asking for a grant for a road between Ashborn and Twelve-mile Creek. 7th April, 1902. Journals, p. 48.

Ruled out of order.

Altered since signed by petitioners. Not addressed to the House. Rules suspended to allow the petition to be received.

With reference to the petition from Ames Buck and others, residents of Fernie, *re* amendments to the "Coal-mines Regulation Act," Mr. Speaker BOOTH gave the following ruling:— 27th March, 1901. Journals, p. 50.

I ruled this petition out of order yesterday, because it was addressed to the Government and not to the House.

The address has been changed since yesterday, and it is not now the petition of the persons who signed it, as they are all residents of Fernie.

I do not think it is competent or proper for a Member to change a petition in this way.

The petition, in its altered shape, should not have been presented to the House.

The petition is also out of order under Rule 112.

Mr. Martin appealed from the ruling of the Chair.

The Chair was sustained on appeal.

On 28th March, on the motion of the Hon. Mr. Eberts, seconded by the Hon. Mr. Dunsmuir, it was *Resolved*,—

That the Standing Rules and Orders be suspended and the petition from Ames Buck and others, residents of Fernie, *re* amendments to the "Coal-mines Regulation Act," be received, notwithstanding the irregularities in said petition.

PRIVILEGE.

Libel against Members of the House. Contempt of Speaker's summons. Punishment, etc. Kennedy Brothers case.

22nd March, 1892. Journals, p. 92.

The Honourable Mr. Robson moved, seconded by the Honourable Mr. Davie,—

That the attention of this House having been directed to a leading article appearing in the *Daily Columbian* newspaper, published on Thursday, the 17th March, 1892, intituled "Outrageous presumption":

Resolved, That in the opinion of this House the said leading article is a scandalous libel against certain Members of this House, and is a high contempt of the privileges, and of the constitutional authority of this House; and it appearing that the said *Daily Columbian* newspaper is published by James M. Kennedy and Robert Kennedy, both residents of the City of New Westminster:

Be it further Resolved, That the said James M. Kennedy and Robert Kennedy be summoned to appear at the Bar of this House on Tuesday next, the 29th day of March, inst., at the hour of two o'clock p.m., to answer for the said scandalous libel and for the contempt aforesaid.

Mr. Sword moved in amendment, seconded by Mr. Kitchen,—

To strike out all the words after "That," and insert the following: "a Select Committee be appointed to take into consideration the circumstances in connection with the article complained of and report to the House what steps (if any) should be taken."

The amendment was negatived.

Original motion proposed and *Resolved* in the affirmative.

29th March, 1892. Journals, p. 78.

The Honourable Mr. Davie moved, seconded by the Honourable Mr. Robson,—

Whereas on the 22nd day of March, instant, James M. Kennedy and Robert Kennedy, both of the City of New Westminster, were duly summonded to appear at the Bar of this House on Tuesday, the 29th March, A.D. 1892, at two o'clock p.m., to answer for a certain scandalous libel and contempt:

And whereas default has been made by the said James M. Kennedy and Robert Kennedy in appearing upon the said summons, although due notice of the same has been served upon them, as by the affidavit of Thomas J. Armstrong appears:

Be it therefore Resolved, That the matter of the scandalous libel and contempt aforesaid be referred to a Select Committee, to consist of Messrs. Pooley, Baker, Croft, Horne, and Forster, with power to call for persons, books, and papers, and to report to the House from time to time.

Mr. Kitchen moved in amendment, seconded by Mr. McKenzie,—

To strike out all the words after the word "Resolved," and insert the following: "That the matter, as far as this Legislative Assembly is concerned, be now allowed to drop."

The amendment was negatived.

Original Resolution put and carried.

Mr. Pooley presented a Report from the Select Committee to whom was referred the matter of the scandalous libel and contempt of James M. Kennedy and Robert Kennedy, as follows:— 9th April, 1892. Journals, p. 103.

FRIDAY, 8th April, 1892.

MR. SPEAKER:

Your Committee, to whom the matter of the scandalous libel and contempt of James M. Kennedy and Robert Kennedy was referred, have the honour to report,—

That, having inquired into the matter, they recommend that the House proceed against the said James M. Kennedy and Robert Kennedy for the said scandalous libel and contempt.

CHARLES E. POOLEY,
Chairman.

The Report was received.

The Honourable Mr. Davie moved, seconded by the Honourable Mr. Robson,— 12th April, 1882. Journals, p. 121.

Be it Resolved, in pursuance of the recommendation of a Select Committee of this House, That James M. Kennedy and Robert Kennedy, both of the City of New Westminster, be summoned to personally appear at the Bar of this House on Tuesday, the 12th day of April, inst., at the hour of half-past two o'clock p.m., to answer as to a certain article appearing on Thursday, the 17th March, 1892, in the *Daily Columbian* newspaper (whereof it is stated that the said James M. Kennedy and Robert Kennedy are the publishers), intituled "Outrageous Presumption," which article is a scandalous libel upon certain Members of this House.

Mr. Sword moved the adjournment of the debate, which was negatived.

The motion was *Resolved* in the affirmative.

The Honourable Mr. Davie moved, seconded by the Honourable Mr. Robson,—

Be it Resolved, That James M. Kennedy and Robert Kennedy, having been summoned to attend this House this day, and not attending in obedience to such summons, are guilty of a contempt, and that they be sent for in the custody of the Sergenat-at-Arms, and that Mr. Speaker do issue his Warrant accordingly.

Mr. Martin moved the "previous question," which was carried.

The motion was then *Resolved* in the affirmative.

The Sergeant-at-Arms having reported to Mr. Speaker that James M. Kennedy and Robert Kennedy were in attendance at the Bar of the House, by virtue of Mr. Speaker's Warrant,— 21st April, 1892. Journals, p. 139.

The Clerk of the House read the Resolution of 12th April, as follows:—

"Be it Resolved, That James M. Kennedy and Robert Kennedy, having been summoned to attend this House this day, and not attending in obedience to such summons, are guilty of a contempt, and that they be sent for in the custody of the Sergeant-at-Arms, and that Mr. Speaker do issue his Warrant accordingly."

Mr. Speaker then asked James M. Kennedy and Robert Kennedy the following question:—

What reason do you give for your disobedience to the summons of the House of the 9th April, 1892?

The said James M. Kennedy and Robert Kennedy replied as follows:—

The answer of James M. Kennedy and Robert Kennedy (herein called Messrs. Kennedy).

Messrs. Kennedy respectfully submit:—

1. That previous to the 7th day of April, A.D. 1892, the Legislative Assembly of the Province of British Columbia did not possess the power of arrest with a view to adjudicate on a complaint of a contempt committed out-of-doors.

2. That the alleged offence (if any) was committed (if at all) previous to the 7th day of April, A.D. 1892, to wit, on the 17th day of March, A.D. 1892, at the City of New Westminster.

3. That they have not been guilty of any contempt against your Honourable House, or against any Committee thereof, or against any Honourable Member thereof, touching any of its privileges.

4. That they did not attend at the Bar of your Honourable House on the 29th day of March last past, as directed in the summons firstly issued on the 22nd day of March, A.D. 1892, acting under the advice of counsel, who advised that your Honourable Body had no jurisdiction to punish as for contempt for the publication of an alleged libel committed out-of-doors.

5. That although sufficient notice of the granting of an injunction may be given by telegram, yet service of any process issued by or with the sanction of your Honourable House, directed to or against any party or parties whom it is sought to affect, disobedience to which would be followed by punishment as for contempt, must be personal, and the original of any such process must be shown by the party serving.

6. That at the time of the alleged service of the summons issued after the passing of the "Legislative Assembly Privileges Act, 1892," the original summons or process was not in the possession of the party effecting such service, nor was it in the City of New Westminster, where the alleged service was attempted to be effected.

7. That the said Act, viz., "Legislative Assembly Privileges Act, 1892," does not give to your Honourable House jurisdiction to entertain any application in the nature of process for contempt in respect of the matter complained of herein, inasmuch as the alleged contempt was committed (if at all) before the passing of the said Act.

8. That the said Act itself is *ultra vires* so far as punishing for libel alleged to have been published out-of-doors.

9. That the said Act is not expressed to be retrospective, yet in the proposed application of it against Messrs. Kennedy it is construed so as to be retrospective.

10. That should it be attempted to punish, as for non-attendance or disobedience to any summons, subpœna, or warrant, Messrs. Kennedy contend that it must be and is in respect of a summons, subpœna, or warrant issued in a matter which this Honourable House has no jurisdiction to inquire into.

11. That they *bona fide* believed that no summons, subpœna, or warrant had been issued, and the alleged notice by telegraph of an alleged summons was not genuine, as the circumstances surrounding the proceedings in this matter, from its very inception, will prove that their belief was not unreasonable.

12. That the editorial published in the *Columbian* of the 24th March last past explains the article published in the said newspaper on the 17th day of March last past (being the alleged libel constituting the contempt herein), and clearly demonstrates the fact that Messrs. Kennedy did not make any personal charges against any of your Committee, or any member thereof, or against any Member of your Honourable House.

13. That Messrs. Kennedy believed at the time, and still do believe, that the public interests would have been better served by the granting of the charter referred to in the said article, so that the carrying passengers between the two cities should not be a monopoly.

14. That they believed, and still do believe, that it was their duty, as public journalists, to criticize the action of the Committee in reporting against the said Bill.

The article published in the *Daily Columbian* on the 24th March last, referred to in the said answer, having been read by the Clerk of the House,—

Mr. Speaker asked the said James M. Kennedy and Robert Kennedy if the said article was offered by them as an apology? and received the reply: "We offer it as an explanation."

Mr. Speaker: "Have you anything further to say?"

Answer: "No."

Mr. Speaker then ordered the said James M. Kennedy and Robert Kennedy to withdraw from the Bar of the House in custody of the Sergeant-at-Arms, pending the expression of the pleasure of the House.

The Honourable Mr. Davie moved, seconded by the Honourable Mr. Robson,—

That James M. Kennedy and Robert Kennedy having been guilty of a contempt of this House, they be committed to the custody of the Sergeant-at-Arms of the Legislative Assembly, and be brought to the Bar of the House to-morrow, Friday, the 22nd April, 1892, at 11 o'clock a.m.

Mr. Beaven moved in amendment, seconded by Mr. Semlin,—

To strike out all the words after "That," and insert in lieu thereof, "the House proceed no further in this matter, and that James M. Kennedy and Robert Kennedy be now discharged from custody."

Question proposed—"Shall the words proposed to be struck out stand part of the question?" and *Resolved* in the affirmative.

The debate on the original question was resumed.

Mr. McKenzie moved, seconded by Mr. Kellie,—

To add at end of resolution, "to be then discharged from custody."

Question proposed—"Shall the words proposed to be added stand part of the question?" and resolved in the negative.

Original motion put and carried.

22nd April, 1892. Journals, p. 141.

The Sergeant-at-Arms having reported to Mr. Speaker that James M. Kennedy and Robert Kennedy were in attendance at the Bar of the House,—

The Clerk of the House read the Resolution of 21st April, as follows:—

"Resolved, That James M. Kennedy and Robert Kennedy having been guilty of a contempt of this House, they be committed to the custody of the Sergeant-at-Arms of the Legislative Assembly, and be brought to the Bar of the House to-morrow, Friday, the 22nd April, 1892, at 11 o'clock a.m."

Mr. Speaker then asked the said James M. Kennedy and Robert Kennedy if they had anything further to add to their statement made yesterday, or whether they had any apology to make to the House for their conduct?

Answer: "We have nothing further to say."

Mr. Speaker then ordered the said James M. Kennedy and Robert Kennedy to withdraw from the Bar of the House in custody of the Sergeant-at-Arms, pending the expression of the pleasure of the House.

The Honourable Mr. Davie moved, seconded by the Honourable Mr. Vernon,—

That James M. Kennedy and Robert Kennedy having been guilty of a contempt of this House, and being brought to the Bar in custody of the Sergeant-at-Arms, be for their said offence committed to the custody of the Sergeant-at-Arms attending the Legislative Assembly, and that Mr. Speaker do issue his Warrant accordingly.

Mr. Booth moved the "previous question," which was *Resolved* in the affirmative.

Original question proposed and *Resolved* in the affirmative.

The following is the opinion given by Dr. *J. G. Bourinot* as to the powers and privileges of the Legislative Assembly:—

My opinion is that the legislative bodies of Canada, generally speaking, have complete authority to punish those who refuse to obey the orders of the House. If a person refuses to obey an order he can be adjudged guilty of contempt, and arrested and imprisoned. It seems to me all legislative bodies should have as full powers as English or Dominion Commons to enforce obedience to their orders within their constitutional jurisdiction. The other Provinces of Canada have by express grant invested themselves with all such powers as are necessary to enforce obedience to their orders, protect their members, and punish contempt; but now, looking carefully and deliberately into the powers of the British Columbia House since first mentioned to me, there appears a great defect in its legislation. It seems limited in terms, and not to give as full privileges by express grant as is enjoyed by such grant by other Provinces. It seems necessary you should amend your legislation, and invest yourself with large powers like the Quebec Legislature. The Supreme Court, in the case of Landers *v.* Woodworth, 2 S.C.R., 158, decided that such express grant was necessary. My opinion still inclines to favour the inherent powers of the Legislature to punish contempt, but the decision of Supreme Court, and cases therein cited, makes it necessary to proceed with caution, and to show the advisability of taking an express grant of all power. In view of decisions of the highest Courts as to the plenary jurisdiction of Canadian Legislatures within their constitutional limits, there can be no doubt that it is competent for them to extend or limit in any particular the executive and legislative parts of the constitution of a Province, except as to the Lieutenant-Governor's office. Under this power as full privilege can be given them as those possessed by the English or Canadian Commons. (*See Bourinot's* Parliamentary Procedure, 1st or 2nd edition, chapter 4, last section, which sets forth the present constitutional position of Provinces.)

J. G. BOURINOT.

Ottawa, Ont., April 9th, 1892.

A motion involving a matter of privilege cannot be postponed at pleasure of the mover.

Mr. Speaker POOLEY: The matter left to me for consideration by the House is the question—Whether the Resolution* of the Honourable Member for Comox, which refers to the Honourable the Senior Member for Nanaimo, is an ordinary motion, which the mover can postpone at pleasure? 13th February, 1888. Journals, p. 14.

When the matter was placed before me on Friday last, I was of opinion that it involved a point of order; but the House gave me time to look more fully into the matter, and I find that my first impression was erroneous, as no question affecting the Orders of the House is involved, but that the motion undoubtedly involves a matter of privilege, as it virtually questions the right of the Honourable the Senior Member for Nanaimo to sit in this House or take part in its proceedings.

The House has full control over its privileges, as also over the Members of the House.

In *May's* Parliamentary Practice, 9th edition, page 290, the following case, amongst others, is mentioned as follows: "On the 22nd July, 1861, a motion being proposed concerning the conduct of a Member, in connection with a joint-stock company, the Speaker said it was doubtful whether it was properly a matter of privilege; but as it affected the character of a Member, it could be proceeded with, if it was the pleasure of the House. The Member concerned having expressed his desire that the discussion should be proceeded with, the motion was made at once."

The present Resolution even goes further than this, as any Honourable Member will see.

The Honourable the Senior Member for Nanaimo has the right to ask the House to proceed with the matter, and the House has the right, in its pleasure, to say when the motion shall be proceeded with.

This is not an ordinary motion, which the mover can postpone at pleasure.

* The Resolution appears in full at page 24 of the Journals.
NOTE.—This question is now provided for by Rule 41.

A matter of privilege must be apparent to enable a motion to be made without notice.

Mr. Curtis rose and proposed to move as a question of privilege a motion making certain charges against the members of the Government. 17th March, 1902. Journals, p. 18.

Mr. Speaker POOLEY ruled the motion out of order, as not disclosing any matter of privilege that could be taken up at this stage without notice.

The House decides whether the matter is of sufficient urgent importance to require immediate discussion without notice.

Mr. McBride, on a question of privilege, proposed to move the following Resolution:— 6th May, 1902. Journals, p. 98.

"That in view of the defeat of the Ministry on motion 'That the Speaker do leave the Chair,' to go into Supply, on the question of the adjournment of the debate, this House do express its view that the Ministry should resign forthwith."

Objection was taken that the motion did not relate to an urgent matter of privilege that could be brought on without notice in the usual way.

Mr. Speaker POOLEY: The question of privilege having been raised, that must be decided before the debate can proceed. (*See* E.H. 174, page 190-305; E.H. 235, page 829.)

Question proposed—"Is this motion of sufficient urgent importance to require immediate discussion as a question of privilege," and *Resolved* in the negative.

Mr. McBride moved, seconded by Mr. Green,—

That this House do now adjourn for the purpose of discussing the position of Government after defeat of yesterday, as appears by the Votes and Proceedings of this House.

Mr. Speaker POOLEY: I must rule the motion out of order.

The House has just decided that the matter referred to in the motion is not an urgent matter which can be discussed as a matter of privilege without notice.

The Hon. Mr. Prentice and Mr. Oliver rose to address the House.

Mr. Speaker POOLEY called upon Hon. Mr. Prentice to proceed, and requested Mr. Oliver to take his seat.

The Chair was sustained on appeal.

Urgency. Motion without notice. Unless a question of privilege or urgency is shown, a motion cannot be moved without notice.

28th March, 1898. Journals, p. 81.

Mr. Sword rose to a question of privilege, and proposed to move, seconded by Mr. Semlin,—

That whereas section 42 of cap. 166 of the Revised Statutes provides that the Minister of Finance shall present to the Legislature, as early as possible in the ensuing Session, a statement of all expenditure made by special warrant:

And whereas the House has now been in session since 10th February, more than six weeks, and such statement has not yet been presented:

Resolved, That the Committee on Public Accounts be instructed to make immediate inquiry as to the cause of this delay, and report at once to the House.

Mr. Speaker BOOTH: This is not a question of privilege, and without the unanimous consent of the House the motion cannot be moved without notice, as required by Rule 48.

Mr. Williams rose to a question of privilege, and proposed to move, seconded by Mr. Semlin,—

That whereas this House made an Order on the 10th instant, as follows:—

"That an humble Address be presented by this House to His Honour the Lieutenant-Governor, praying him to cause to be laid before the House copies of all Orders in Council in any way relating to the land-grant to the Nelson and Fort Sheppard Railway Company; also, copies of all correspondence between any member of the Government and any person or persons, on behalf of or in relation to said Railway Company";

And whereas the papers therein referred to must contain information

of great importance to the country, and the country and House have the right to be placed in possession of the contents thereof without delay, as evidenced by said Order:

And whereas the said papers relate to the grant of a large tract of the public lands of the Province to the said Company:

And whereas a notice of motion has been given, charging the Government with exceeding the powers conferred upon them by the "Nelson and Fort Sheppard Railway Subsidy Act, 1892," in granting said lands to said Company:

And whereas the terms of said Order have as yet not been complied with:

And whereas such neglect is retarding the business of the House by preventing the motion, of which notice has been given as aforesaid, from being submitted to the House:

And whereas it is the duty of the Government to place the House, without delay, in possession of all facts bearing upon their administration of the affairs of the country, especially so when their conduct is to be questioned by a motion, notice of which has been given:

Be it Resolved, That Messrs. Higgins, Helmcken, and the mover be a Committee, with power to send for persons and papers, to inquire into the cause of such neglect, and to ascertain the name or names of the person or persons who are responsible for the gross delay in complying with the terms of the said Order of this House, and to report to this House.

Mr. Speaker BOOTH: No question of privilege is shown, and no notice of the motion has been given. The unanimous consent of the House is required to make this motion. 27th February, 1900. Journals, p. 78.

The Hon. Mr. Semlin moved, seconded by the Hon. Mr. Henderson,—

That this House, being fully alive to the great loss, inconvenience, and expense to the country of any interruption of the business of this House at the present time, begs hereby to express its regret that His Honour has seen fit to dismiss his Advisers, as in the present crisis they have efficient control of the House.

A debate arose.

Mr. Jos. Martin objected to the motion being made without notice.

Mr. Speaker FORSTER ruled that the matter was a question of privilege and a matter of urgency, and was therefore in order. (*May*, page 258.)

Mr. McPhillips objected to the motion, as reflecting on the action of His Honour the Lieutenant-Governor.

Mr. Speaker FORSTER ruled the motion to be in order. (*See May*, 316.)

Mr. Jos. Martin appealed from the ruling of the Chair.

The Chair was sustained on division.

Newspaper articles. Appeal from the Chair. Adjournment of the House. The adjournment of the House cannot be moved to discuss a newspaper article. It is out of order to discuss as a question of privilege general newspaper criticisms. When the decision of the Chair is appealed from, no further debate is allowed.

28th May, 1902. Journals, p. 132.

Mr. McBride rose and proceeded to discuss, as a question of privilege, an article appearing in the Victoria *Colonist* newspaper severely criticizing the conduct of the Opposition.

Mr. Speaker POOLEY: The Hon. Member is not complaining of a report of his speech, and does not intend to follow up his complaint with a motion. He is therefore out of order in discussing the matter. (*See May*, 10th edition, 87.)

Mr. McBride appealed from the ruling of the Chair.

Mr. McPhillips rose to debate the question.

Mr. Speaker POOLEY: No debate is allowed after an appeal has been taken from the ruling of the Chair. (*See* Rule 20, and *Bourinot*, 1st edition, page 367.)

Mr. McBride moved, seconded by Mr. Green,—

That this House do now adjourn.

The object of this motion is to discuss an article appearing in the daily issue of the Victoria *Colonist* of May 28th instant, directly concerning the privileges of this House.

Mr. Speaker POOLEY: The motion is out of order, as it does not disclose a matter of public urgent importance requiring immediate consideration. (*See May*, 10th edition, 260.) It is not a question of privilege, and if it was could only be dealt with by motion proceeding against the offending parties, as was done in the "Kennedy case." (Speakers' Decisions, page 114.)

Motion exceeding limits of matters of privilege and referring to matters which took place in Committee not reported to the House ruled out.

28th April, 1898. Journals, p. 136.

Mr. Semlin rose to a question of privilege, and moved, seconded by Mr. Williams,—

That it be entered in the Journals of the House that on 27th April the correctness of the ruling of the Chairman (*pro tem.*) of the Committee of the Whole on the Redistribution Bill having been appealed to the House, the Opposition held that the Chairman, in his report to the House, misrepresented the question, and as Mr. Speaker refused to consider anything but the Chairman's report, and did not give those objecting the opportunity of showing that such report was not correct, and as the House, by allowing the motion to be put and voting that the "Chair be sustained," approved of the action of Mr. Speaker, and thereby made itself a party to his refusal to hear the complaint of those objecting to the Chairman's report, the following Members withdrew from the House: Messrs. Semlin, Williams, Cotton, Graham, Sword, Kennedy, Hume, Macpherson, Kidd, and Vedder, and refused to take their places on the resumption of the Committee, as they considered that the temporary Chairman of the Committee had taken advantage of his position to put the question contrary to the Rules of the House, and that their privileges as members had been disregarded, without their having been able to obtain redress.

Mr. Speaker BOOTH: I think the motion exceeds the limits of matters of privilege, and refers to proceedings which took place in the Committee of the Whole which were not reported to the House, and of which the House cannot take cognizance. I rule the motion out of order.

PREVIOUS QUESTION.

"Previous question" resolved in the negative upon the second reading of a Bill. Notice of motion required to place the Bill on the Orders of the Day again.

10th March, 1879. Journals, p. 31.

Mr. Vernon moved the second reading of Bill (No. 19) intituled "An Act to amend the 'Constitution Amendment Act, 1878,' by providing for a Redistribution of Seats in the Districts of Nanaimo, New Westminster, Esquimalt, and Cassiar."

Objection being taken that as on the motion for the second reading of the Bill the "previous question" had been moved and resolved in the negative, that the Bill should not have been placed upon the Orders of the Day without two days' notice having been given, Mr. Speaker WILLIAMS stated his opinion that it was rightly so placed until the House ordered otherwise.

The House was appealed to, and the Chair was not sustained.

The "previous question" can be moved in going into Committee of Supply. It cannot be superseded by motion to adjourn the House.

12th May, 1902. Journals, p. 108.

The House resumed the adjourned debate on the motion—"'That Mr. Speaker do now leave the Chair,' for the purpose of going into Committee of Supply."

Mr. Houston moved the "previous question."

Mr. Oliver moved—That the House do now adjourn.

Mr. Speaker POOLEY: The motion is out of order. Rules 34 and 35 preclude all amendment or debate until the "previous question" is decided.

Objection being taken that the "previous question" could not be moved on the motion "That Mr. Speaker do now leave the Chair," for the purpose of going into Committee of Supply, Mr. Speaker POOLEY ruled that the motion was in order, and referred to *May*, page 269, Note 2, where it is stated that this motion is akin to the closure motion, and page 211 of *May* shows that the closure motion can be moved on going into Committee of Supply.

Mr. McBride appealed from the ruling of the Chair.

The Chair was sustained on appeal.

Question proposed—"That this question be now put?" and *Resolved* in the affirmative.

(Followed and confirmed, 27th May, 1902.) (*See* following ruling.)

The "previous question" can be moved in going into Committee of Supply.

27th May, 1902. Journals, p. 130.

The House resumed the adjourned debate on the motion—"That Mr. Speaker do now leave the Chair" (for Committee of Supply), and the amendment thereto moved by Mr. Oliver, as follows:—

* * * * * *

Mr. Houston moved the "previous question."

Mr. McPhillips raised the point of order: "That the 'previous question' could not be moved on the motion to go into Committee of Supply, and especially while notices of amendments stood on the Paper."

Mr. Speaker POOLEY: I shall follow the decision of the House given on 12th May inst. on the same question, and rule the motion to be in order. (*See* Speakers' Decisions, page 124.)

The Chair was sustained on appeal.

QUESTIONS.

Question involving a legal opinion and matter of opinion cannot be put.

9th February, 1886. Journals, p. 20.

Mr. Orr asked the Honourable the Attorney-General the following question:—

Under what authority do the present Canadian Pacific Railway Company propose to extend the Canadian Pacific Railway to Coal Harbour and English Bay, without first obtaining a charter from the Legislature of the Province of British Columbia?

Mr. Speaker MARA ruled the question out of order, as it asked for a legal opinion.

7th February, 1887. Journals, p. 12.

Mr. Higgins asked the Honourable the Chief Commissioner of Lands and Works the following question:—

Is he aware that there is stored in a frame building, within a few hundred feet of the Government Buildings, a large quantity of powder; and that the existence of said explosive in its present exposed condition is a menace to Government as well as private property?

Mr. Speaker POOLEY ruled the question out of order, as containing matter of opinion.

19th March, 1892. Journals, p. 127.

Mr. Hall asked the Honourable the Attorney-General the following question:—

Is clause 7 of Bill No. 35 (Game Bill) constitutional?

Is the prohibition therein contained, which prevents the exportation of deer-skins (of which this Province has exported at least $20,000 worth annually) an interference with trade and commerce?

Mr. Speaker HIGGINS ruled the question out of order, as involving an expression of a legal opinion.

27th March, 1905. Journals, p. 77.

Mr. Evans asked the Hon. the Attorney-General the following question:—

Section 50, subsection (95), of the "Municipal Clauses Act," chap. 144, provides that municipalities may pass a by-law to regulate "public morals, including the observance of the Lord's Day, commonly called Sunday." Have municipalities this power?

Ruled out of order, on the ground that the question asked for a legal opinion.

31st January, 1894. Journals, p. 18.

Mr. Keith asked the Honourable the Attorney-General the following questions:—

1. Is the amendment to the "Coal-mines Regulation Act" of 1890 constitutional, or, in other words, is said Act workable?

2. And if said Act is "constitutional," is it the intention of the Government to enforce it?

The question was ruled out of order, on the ground that it involved a legal opinion.

Mr. Gilmour asked the Government the following question:— 22nd August, 1900. Journals, p. 158.

As the promoters of the Lake Bennett and Chilkat Railways were not aware of the policy of the Government in reference to railway charters until they had incurred large expense in connection with their charter, does the Government intend to recompense them for said expense?

The question was ruled out of order, as the same contained statements of fact and matter of opinion.

Must not contain statement of facts or matter of opinion.

Mr. Curtis asked the Government the following questions:— 20th May, 1903. Journals, p. 60.

1. Is the Government aware that the contractor or architect is allowing aliens, brought in for the purpose, to do decorative work on Government House, when there are residents of the Province thoroughly capable of doing the work?

2. Will the Government investigate the matter and, finding it to be as stated, have such employment discontinued forthwith?

3. Is the Government aware that on the new lines of railway in the Province being extended from or connected with railways in the United States and worked in connection therewith, nearly all the employees on such new lines in the Province are aliens brought in from the States under contract in defiance of the Statutes in that behalf?

4. If not, will it investigate the matter and, finding it to be so, communicate with the railway companies contravening the law and arrange for a fair proportion of employees on all railways in the Province and crossing the International Boundary-line being Canadians; and, failing a satisfactory arrangement being made by the companies, will it put the law in motion to remedy the grievance?

Mr. Speaker POOLEY ruled the question out of order, on the ground that it contained statements of fact and matter of opinion.

Must not contain matters of opinion, inference, and argument.

Mr. Semlin asked the Hon. the Premier the following questions:— 5th January, 1896. Journals, p. 23.

1. Who are the employees of the Gold Commissioner's office in Barkerville and their salary?

2. Why was the office of Mining Recorder moved from Richfield to Barkerville, at an expense of about $1,000, and in the face of the opposition of the people living there (I refer to winter quarters)?

3. Why was an Assayer employed at Barkerville, at a salary of $60 per month, who is not competent to assay refractory ores and has never passed an examination for assaying?

4. Who is supposed to look after the buildings which contain the chlorination-works, erected by the Government at a cost of many thousand dollars?

5. Does the Government own the reduction-works on Island Mountain? If so, have they been leased to any parties, and what rental is to be paid, also the term for which lease is to be held and by whom?

The questions were ruled out of order, as involving matter of opinion, argument, and inference. (*See May*, 355.)

Must not state facts, matter of argument, inferences, or imputations.

17th March, 1898. Journals, p. 62.

Mr. Kellie asked the Hon. the Minister of Finance the following questions:—

1. Did not the Dominion Government co-operate in equal amount with the Provincial Government in 1894-5 in the protection of the river-bank at Revelstoke upon representation made by the Provincial Government?

2. In pursuance of the understanding then arrived at, did not the Dominion Government last year put an appropriation in their Estimates of $10,500 for this protection-work, contingent on the Provincial Government contributing a like or equal amount?

3. And, though the Provincial Government had it in its power to meet this sum, and though the importance of taking action in this protection-work and of co-operating in the same was represented to it from Ottawa, Revelstoke, and on the floor of this House, did not the Provincial Government decline to do so; and in consequence of that refusal to assist, was not the $10,500 appropriation dismissed from the Federal Estimates, of which action the Government has been advised?

4. Upon what ground was the offered co-operation declined?

5. Does the Provincial Government still hold to the ground upon which it declined to assist or co-operate.

6. Is the Provincial Government now doing this work alone?

7. How much, if so, is it to cost, and how has provision been made for it?

Mr. Speaker BOOTH: This question states facts and matter of argument, also inferences and imputations, and is out of order. (*See May*, 10th edition, page 238.)

Must not require a declaration of policy.

7th February, 1899. Journals, p. 43.

Mr. Clifford asked the Hon. the Acting Minister of Mines the following question:—

Is it the intention of the Government to bring in a Bill to protect those miners in the Atlin country who took out mining certificates, and staked off claims and recorded them, in good faith, under the mining laws of the North-West Territories?

The Hon. Mr. Cotton raised the point of order that the question, if answered, would compel the Government to declare its policy.

Question ruled out of order.

May be asked Ministers as to their intentions regarding any matter of legislation or administration.

8th February, 1894. Journals, p. 30.

The Hon. Member for Victoria City asked the Hon. Minister of Finance:—

Is it the intention of the Government to repeal so much of the personal-property tax enactment as relates to money loaned on mortgage on real estate?

The Hon. Minister of Finance objected to the question, claiming that Ministers are not required to answer questions involving an explanation of their intentions as to matters of taxation.

Mr. Speaker HIGGINS: Rule 45 of our own Rules and Orders permits the putting of questions to Ministers of the Crown relating to public affairs, and of this privilege Hon. Members have frequently availed themselves, without restriction or objection. Numerous cases may be cited from the Journals of this House—notably those of 1889, page 13; 1892, page 19; and 1893, page 35—wherein it is recorded that similar questions have been asked by Private Members and answered by Ministers of the Crown. *May*, 9th edition, pages 354-5, says that "A question may be asked concerning the intention of the Government in any matter of legislation or administration, but not as to their abstract opinions upon general questions of policy." The authority (*Todd*) quoted by the Minister of Finance is not a text-book in this House, Rule 131 of our Rules and Orders requiring that English rules shall apply in unprovided cases.

I am of opinion that, under Rule 45 and the practice and usage of this House, the question is admissible.

Unreasonable length. Stating matter of opinion and imputation. Revision of improper questions by the Clerk.

Mr. Speaker EBERTS gave the following decision on the question raised by Mr. Jardine as to why the notice of questions given by him did not appear in the notice list as handed in:— 22nd February, 1910. Journals, p. 51.

The Hon. Member for Esquimalt rose to a question of privilege to the effect that he had placed certain questions on the Clerk's desk, and some of them had not appeared in the Votes and Proceedings to be answered by the Minister to whom addressed, and it is alleged that question 12 is altogether different from the one propounded by the Hon. Member, and that one or two questions had been suppressed.

I have inquired from the Clerk of the House as to the omissions complained of, and have been informed by him that certain questions were handed to him by the Hon. Member about six o'clock in the evening. As it has been the custom for the past twenty years, he examines all questions before they are handed to the King's Printer to be included in the Votes and Proceedings, and in this case made certain changes in them, as they appeared to be to him not in accordance with the practice and procedure of the House, and particularly drew my attention to a very long question relating to the names of 110 teachers and the amounts alleged to have been received by them for teaching in the schools, the names of whom were also set out in the question.

As to the question referring to the names of 110 teachers, etc., I am of opinion that it is, to a certain extent, an abuse of the right of questioning, partly from its unreasonable length, but particularly from the fact that a full return of the names and amounts paid all teachers for the year 1905-6 appears in the Public Accounts of the Province and are published in the Sessional Papers.

The question "Do the names of any of those 110 teachers appear in the School Report for 1905-6 as having taught the schools for which they were paid those amounts?" was changed by the Clerk to read: "Do the names of all teachers appear in the School Report for 1905-6 who

taught in the schools for that year?" As the question above it had been struck out, the only course for the Clerk to do was to amend the following question which referred to it in the way he did.

The next question disallowed: "Do these facts not prove that the chances are only about one in three that the Inspectors' detailed reports of rural schools stand to the credit or discredit of the right teacher?" is a matter of opinion and not a matter of fact.

The next question stricken out was: "Do these facts not prove that the Inspectors reports are unreliable?" is also irregular, as suggesting an imputation.

As I have said, the practice has grown up of submitting all questions to the Clerk. By the true construction of Parliamentary procedure the Speaker should rule upon the allowance or refusal of questions.

If it be the wish of the House, I shall direct the Clerk to discontinue the discretion that has been accorded to him for so many years.

REVENUE.

An amendment to the Address in reply to the Queen's Speech proposing abolition of certain taxes and affecting the revenue cannot be moved.

Pursuant to Order, the adjourned debate on the Address in reply to the Speech of His Honour the Lieutenant-Governor was resumed. 22nd February, 1898. Journals, p. 20.

Resolution proposed and agreed to.

Clauses 1 and 2 read a second time and agreed to.

Upon clause 3 being read—

Mr. Cotton moved in amendment, seconded by Mr. Graham,—

That section 3 be amended by adding thereto the following words: "and we trust that measures will be laid before us providing for the abolition of the double taxation involved in the present system of taxing mortgages, and also for the relief of labourers in metalliferous mines from the necessity of taking out, as such, free miners' certificates."

Mr. Speaker HIGGINS ruled the motion out of order.

The Chair was sustained on appeal.

An instruction to Committee to consider a new clause interfering with taxation and revenue ruled out of order.

Order called for the consideration of (Bill No. 44) intituled "An Act to amend the 'Mineral Act'" in Committee of the Whole. 19th April, 1898. Journals, p. 123.

Mr. Braden moved, seconded by Mr. Walkem,—

That it be an instruction to the Mining Committee to consider the following as section 3 of chapter 135 of the Revised Statutes:—

"1. Section 3 of the 'Mineral Act, 1897,' is hereby repealed, and the following enacted in lieu thereof:—

"3. Every person over eighteen years of age, and being a British subject, or being an alien, upon his making a declaration of his intention to become a British subject before any person authorized to take affidavits or affirmations under the 'Oaths Act, 1892,' or before the Gold Commissioner or Mining Recorder, with declaration shall be in the Form U in the Schedule to this Act, and upon his filing the same with the Mining Recorder, and every joint-stock company, shall be entitled to all the rights and privileges of a free miner, and shall be considered a free miner, upon taking out a free miner's certificate. A minor who shall become a free miner shall, as regards his mining property and liabilities contracted in connection therewith, be treated as of full age. A free miner's certificate issued to a joint-stock company shall be issued in its corporate named. A free miner's certificate shall not be transferable."

Mr. Speaker BOOTH ruled the motion out of order, on the grounds:—

1. That the motion was improperly drawn, as referring to the Select Committee on Mining, and not to the Committee of the Whole on Bill 44.

2. That the proposed section would have the effect of very largely reducing the number of persons who may become free miners and entitled to free miners' certificates, and thus would cause a considerable reduction of the revenue derived by the Crown from that source. It therefore interferes with taxation. (*See* Speakers' Decisions, pages 155 and 158.)

25th April, 1898. Journals, p. 133.

The Report on Bill (No. 45) intituled "An Act to amend the 'Placer Mining Act'" was considered.

Mr. Braden moved to insert the following as a new section:—

"Every person over, but not under, eighteen years of age, and every joint-stock company, shall be entitled to all the rights and privileges of a free miner, and shall be considered a free miner, upon taking out a free miner's certificate: Provided, however, that no alien shall be permitted to record a mineral claim unless he has previously, and in accordance with the provisions of the Act regulating the same, declared his intention to become a British subject; and no Crown grant shall be issued upon any mineral claim recorded after the passage of this Act to any person other than a British subject. A minor who shall become a free miner shall, as regards his mining property and liabilities contracted in connection therewith, be treated as of full age. A free miner's' certificate issued to a joint-stock company shall be issued in its corporate name. A free miner's certificate shall not be transferable."

Mr. Speaker BOOTH ruled the motion out of order, as interfering with the administration of Crown lands, taxation, and revenue. (*See* previous decision.)

The Chair was sustained on appeal.

10th March, 1910. Journals, p. 106.

On the second reading of Bill (No. 35) intituled "An Act respecting Compensation to Workmen for Accidental Injuries suffered in the Course of their Employment" a point of order arose, objection being taken to section 9, as dealing with the revenue of the Crown.

Mr. Speaker EBERTS sustained the objection and ruled the Bill out of order.

Bill proposing the remitting of fines ruled out.

9th April, 1902. Journals, p. 56.

Order for the second reading of Bill (No. 12) intituled "An Act to amend the 'Companies Clauses Act, 1897,'" called.

On objection taken, Mr. Speaker POOLEY ruled the Bill out of order, on the ground that the same dealt with the revenue, viz., the remitting of fines which had become part of the public funds.

Clauses dealing with revenue and Crown lands cannot be inserted in a Bill by Private Members.

2nd March, 1887. Journals, p. 36.

Moved by Mr. Orr, seconded by Mr. Ladner,—

That the order for the consideration of the Report on Bill No. 7 be discharged, and the Bill recommitted for the purpose of striking out clause 3 and adding the following instead:—

"That upon the coming into force of this Act the Chief Commissioner is hereby authorized to issue Crown grants to all settlers who have complied with the land regulations, at the rate of $1 per acre, and that the said money shall be kept in a separate account for dyking purposes within the limits of said lands."

Mr. Speaker POOLEY ruled the motion out of order as dealing with revenue and Crown lands.

Bill dealing with. A Bill referring to the expenditure of public moneys, the payment of which is already authorized by Statute, is not a Tax or Revenue Bill.

The adjourned debate on the consideration of the Report on Bill (No. 23) intituled "An Act to incorporate The Royal Institution for the Advancement of Learning of British Columbia," was resumed. 16th February, 1906. Journals, p. 55.

Mr. Henderson raised a point of order to the Bill proceeding further, on the ground that clause 8* proposed to deal with revenue and change the designation of the same.

Mr. Speaker POOLEY: The Bill is not a Revenue Bill. It does not propose a tax of any kind, but only refers to the expenditure of moneys the payment of which has been authorized by another Act. The objection is not well taken.

Report adopted.

* Clause 8 read as follows:—

8. The Royal Institution may enter into an agreement with any Board of School Trustees, or any City Council, or any other body in charge of any branch of public education in the Province of British Columbia, whereby the Royal Institution shall undertake the conduct or administration of any part of the higher education work now carried on by any such bodies, and any Board of School Trustees, any City Council, and any body in charge of any branch of public education in the said Province may, notwithstanding anything in the education laws of the Province, enter into such an agreement with the Royal Institution and may transfer or pay over to the Royal Institution such equipment or moneys in consideration thereof as may from time to time be agreed upon: Provided that no agreement made in pursuance of this section shall be valid until it has been assented to by the Council of Public Instruction.

REVENUE AND EXPENDITURE.

Bills affecting revenue or involving expenditure of public money cannot be introduced by Private Members.

8th March, 1877. Journals, p. 19.

Bill to provide for and regulate the printing, etc., of the Statutes, etc.

8th April, 1902. Journals, p. 52.

Upon the Order for the third reading of Bill (No. 21) intituled "An Act for the Redistribution of British Columbia into Electoral Districts" being read,—

Mr. Taylor moved—That the Order for the third reading be discharged, and the Bill recommitted for the purpose of considering the following amendments:—

To strike out subsection (26) of section 3, and substitute therefor the following:—

"REVELSTOKE ELECTORAL DISTRICT.

"(26.) That tract of land contained within the following boundaries, viz.:—

"Commencing at the point where the 52nd parallel of latitude intersects the western boundary of Kootenay District; thence north-westerly to the height of land between the waters flowing into the North Thompson River on the west and Canoe River on the east; thence following such height of land to the 120th meridian; thence north along said meridian to the intersection thereof with the 53rd paralled of latitude; thence east along said parallel to the summit of the Rocky Mountains; thence south-easterly along said summit of the Rocky Mountains to the 118th meridian; thence south along said meridian to the boundary between the East and West Kootenay Districts; thence along said boundary to the height of land between the waters flowing into the Illecillewaet River on the north and Fish River on the south; thence south-westerly along said height of land, crossing the Columbia River at the mouth of Akolkolex Creek, to the western boundary of Kootenay District; thence northerly following said western boundary of said district to the point of commencement, shall be constituted one Electoral District, to be designated 'Revelstoke Electoral District,' and shall return one member."

Also to add the following new subsection to said section 3:—

"LARDEAU ELECTORAL DISTRICT.

"That tract of land contained within the following boundaries, viz.:—

"Commencing at the point where the south boundary of Revelstoke Electoral District touches the western boundary of Kootenay District; thence north-easterly following said south boundary of said electoral district to the boundary between East and West Kootenay Districts; thence southerly along said last-mentioned boundary to the point where the southern boundary of the Columbia Electoral District reaches the same; thence easterly following the height of land between Hamill Creek and Fry River, and, crossing Kootenay Lake, following the height of land between Lost Ledge Creek and Schroeder Creek to the height of

land between the waters flowing into Slocan Lake on the west and Kootenay Lake on the east; thence following said height of land to a point due east and two miles north of Nakusp; thence due east to the west boundary of Kootenay District; thence north along said boundary to the point of commencement, shall constitute one Electoral District, to be known as 'Lardeau Electoral District,' and shall return one member."

Mr. Speaker POOLEY ruled the motion out of order, on the ground that it proposed an increase of representation and would entail an expenditure of public money.

Bill read a third time and passed.

Members' Indemnity Bill. 27th August, 1878. Journals, p. 103.

Bills appropriating public moneys must be first recommended by Message.

Bill authorizing municipalities to retain Court fines, etc. 7th April, 1877. Journals, p. 48.

Bills contemplating the appropriation of public revenue must be recommended by Message.

On 27th March (Journals, page 67) the Hon. Mr. Robson moved— 4th April, 1888. Journals, pp. 67, 71.

That Bill (No. 47) intituled "An Act respecting the Sale of Intoxicating Liquors, and the Issue of Licences therefor," be read a second time now.

Objections having been taken to the Bill, the debate was adjourned.

On 4th April, Mr. Speaker POOLEY gave his decision on the objections as follows:—

The questions left for my decision are—

1st. Whether the Bill intituled "An Act respecting the Sale of Intoxicating Liquors, and the Issue of Licences therefor," has been properly introduced by the Message from His Honour the Lieutenant-Governor? and

2nd. Is this a Tax Bill?

The Lieutenant-Governor's Message is as follows:—

"The Lieutenant-Governor transmits to the Legislative Assembly a Bill respecting the sale of intoxicating liquors, and the issue of licences therefor, and consents to the same being introduced for the consideration of the Legislative Assembly.

"*Government House, 21st March, 1888.*"

In the introduction of Bills affecting liquors the practice of the House has not been uniform. I find, on referring to the Journals of the House for the year 1875, that the "Licence Amendment Act, 1875," which created additional licences, was introduced to the House by the Honourable Attorney-General, Mr. Walkem, without Message, nor did it originate in Committee of the Whole.

In the Journals of the year 1876 I find that the "Licence Amendment Act, 1876" (No. 11), creating new licences, was originated in Committee of the Whole without a Message; the motion to go into Committee being moved by the Honourable T. B. Humphreys, seconded by the Honourable F. G. Vernon.

And also in the same Journals, a Bill to further amend the "Licences Ordinance, 1867," also creating a new licence, was originated in Committee of the Whole without a Message; the motion to go into Committee being moved by Mr. Mara, a Private Member, seconded by the Honourable F. G. Vernon.

In the Journals of 1879 I find the "Licences Amendment Ordinance, 1879," which creates additional licences, was brought down by Message from the Lieutenant-Governor. This is the first and only instance of the kind that I can find where this practice has been adopted.

In *May's* Parliamentary Practice, 8th edition, pages 489 and 490, Bills for the regulation of public-houses, refreshment-houses, and beer-houses, or to amend the licensing laws, have been required to originate in a Committee as Bills affecting a particular trade.

Section 58 of the Rules and Orders of this House is as follows:—

"No Bill relating to trade, or the alteration of the laws concerning trade, is to be brought into the House until the proposition shall have been first considered in a Committee of the Whole House, and agreed unto by the House."

Section 92 of the "British North America Act" reads as follows:—

"In the Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated:—

"Subsec. (2). Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.

"Subsec. (9). Shop, saloon, tavern, auctioneer, and other licences, in order to the raising of a revenue for Provincial, local, or municipal purposes."

The distinction between taxes and licences is here recognized. A tax is a compulsory payment, and the payment for a licence is a permissive or optional payment.

I am of opinion that this is not a Tax Bill, but is a Bill affecting a particular branch of trade, and if the Bill did not go further than the mere regulation of the amount to be paid for a licence, or limiting the number of licences to be issued, I should decide that the Bill could have been originated in Committee of the Whole without a Message from the Lieutenant-Governor; but this Bill goes much further, and (section 4) gives the Lieutenant-Governor in Council power to appoint Licence Commissioners and Inspectors, at such remuneration as he shall think fit, and in section 49, subsection (2), gives the Lieutenant-Governor in Council power to apply the licence fund for the payment of the salary and expenses of the Commissioners and Inspectors and for the expenses of the office of the Board, or otherwise in carrying the provisions of the law into effect, etc.

This is an appropriation of part of the public revenue (section 92, subsection (9), "British North America Act," licences form part of public revenue), and by section 54 of the "British North America Act" it is provided that the House shall not adopt or pass any Vote, Resolution, Address, or Bill for the appropriation of any part of the public revenue, etc., to any purpose that has not been first recommended by a Message from the Lieutenant-Governor, etc.

This being an Act which contemplates the appropriation of part of the public revenue must be recommended by a Message of the Lieutenant-Governor. This has not been done, and I must therefore rule that the Bill has not been properly introduced.

NOTE.—It will be noticed that the Message did not *recommend* the introduction of the Bill, but only *consented* to its introduction.
This ruling was followed in 1891 by Mr. Speaker HIGGINS. (*See* next decision.)

Bill appropriating public revenue.

The Order for the House to again consider Bill (No. 2) intituled "An Act to prevent the Spread of Contagious Diseases among Horses and other Domestic Animals" being called,— 3rd February, 1891. Journals, p. 19.

Mr. Beaven raised the point of order: "That as clause 18 contemplates the appropriation of part of the public revenue, the Bill should have been recommended by Message, and was therefore not properly introduced."

Mr. Speaker HIGGINS referred to the decision of Mr. Speaker POOLEY (*see* previous ruling; Journals, 1888, page 71) on a similar question, and ruled the Bill out of order.

The order for Committee was then discharged.

A motion expressing opinion involving the expenditure of public money ruled out of order.

Moved by Mr. Smithe, seconded by Mr. Mara,— 16th February, 1881. Journals, p. 18.

Whereas the prosperity of the Province would be materially and permanently increased by the erection in this Province of a factory for the manufacture of woollen materials:

And whereas it is desirable and expedient to encourage such an enterprise:

Be it therefore Resolved, That in the opinion of this House it is expedient that the sum of dollars be given as a bonus to the first person or persons, or corporation of persons, who shall, within the said Province, erect, in the course of the next two years, a factory for the above purpose, and in such erection expend the sum of forty thousand dollars; the said bonus to be paid after such erection and expenditure of forty thousand dollars as aforesaid, and to the satisfaction of the Lieutenant-Governor in Council, out of the consolidated revenue of this Province.

A point of order having arisen,—

Mr. Speaker WILLIAMS: The motion of the Member for Cowichan is objectionable.

The recommendation of the Crown must be had, as provided by section 54 of the "British North America Act."

"This House will not proceed upon any motion for a grant or charge payable out of the consolidated revenue of the Province that has not been recommended by the Crown." (*May*, page 604.)

"And this rule is extended by the uniform practice of Parliament to any motion which—though not directly proposing a grant—involves the expenditure of public money." (*May*, page 605.)

"Yet, in this case, the proposal is direct and specific. So strictly has this rule been enforced that the House has refused to receive a Report from a Select Committee suggesting an advance of money." (*May*, page 605.)

But the Honourable Member may maintain that the Resolution is merely expressive of an abstract opinion of the House; such resolutions have been allowed upon the principle that, not being offered in a form in which a vote of the House for granting money or imposing a burden can be regularly agreed to, they are barren of results, and are therefore to be regarded in the same light as any other abstract resolutions. But for that very reason they are objectionable, and being, also, an evasion of wholesome rules, they are discouraged as much as possible. (*May*, page 607.)

I rule the motion out of order.

No resolution expressing opinion recommending expenditure of public money can be put from the Chair unless recommended by the Crown—Rule 118.

9th February, 1893. Journals, p. 16.

Mr. Brown moved—That Bill (No. 18) intituled "An Act to further amend the 'Provincial Voters Act'" be read a second time now.

Mr. Beaven moved in amendment, seconded by Mr. Kitchen,—

To strike out all the words after "That," and insert, "the question of extending the franchise to women in Provincial elections should be submitted in a direct manner to the women who would be qualified as voters under this Act, if made law, before legislating upon the subject."

Mr. Speaker HIGGINS ruled the motion out of order under Rule 118.

30th March, 1893. Journals, p. 101.

Mr. Watt rose to move the following Resolution:—

That in the opinion of this House it would be in the best interests of the Province if the Government were to inaugurate a scheme for the survey of those sections of Yale, Kootenay, Lillooet, and Lower Cariboo Districts in which irrigation is required for the successful prosecution of agriculture, in order to show how lands now comparatively valueless may be supplied with sufficient water for purposes of irrigation; such surveys to show the source of water-supply, its amount, the direction, length, capacity, and cost of the necessary ditches, and the acreage which will in this way be reclaimed.

Mr. Speaker HIGGINS ruled the motion out of order, as being contrary to the provisions of Rule 118.

18th April, 1901. Journals, p. 74.

Mr. Hayward moved, seconded by Mr. Neill,—

Whereas the cost of clearing the bush lands of this Province is very great, owing to the size of the timber:

And whereas one of the greatest aids to the agriculturist in clearing his lands of such timber is stumping-powder:

And whereas at the present time the cost to the farmer of such powder is far above the actual cost of same:

Therefore, be it Resolved, That it is the opinion of this House that the Provincial Government should take into its serious consideration the advisability of obtaining stumping-powder in large quantities and selling the same in smaller quantities at cost price to the farmers of the Province.

Ruled out of order. (*See* Rule 118.)

Motion leading up to the recommendation of the expenditure of public money.

Mr. Fulton moved, seconded by Mr. Ellison,— 17th April, 1901. Journals, p. 67.

Whereas there are considerable areas of land in the Dry Belt of the Interior of this Province, which, if a sufficient water-supply were obtainable, could be irrigated and brought under cultivation, and prove of great value:

And whereas, every year, large quantities of water run to waste down the streams in the Dry Belt, which, if some practicable system of storing same were devised, could be conserved and utilized for irrigating the aforesaid lands:

Be it therefore Resolved, That in the opinion of this House it is desirable that the Government of this Province should take immediate steps to investigate fully the question of irrigation in this Province, and, if possible, to devise means of bringing the arid lands of the Dry Belt under cultivation.

Ruled out of order. (*See* Rule 118.)

Mr. Helmcken moved, seconded by Mr. Houston,— 16th April, 1901. Journals, p. 65.

Whereas lead-mining in British Columbia has grown into a most important industry, giving employment to a large number of men at high wages, supporting the population of an extensive area in the Kootenay Districts, and adding much to the general prosperity of the country:

And whereas the increase and development of the industry are certain under favourable conditions, which conditions mainly depend on the miners being able to get their ore smelted at a reasonable charge for freight and treatment:

And whereas the demand for these lead ores by smelters in the United States has almost ceased, and the capacity of the smelters now operating in British Columbia is totally inadequate to treat the output of these mines, some of which have already lessened their output and others have closed down on account of this difficulty:

And whereas no means of refining base bullion exists to-day in Canada, thereby necessitating the shipment to United States refineries of the lead product of Canadian smelters, and a much higher rate for refining lead than formerly is now being demanded by the American Smelting and Refining Trust:

And whereas there is no tendency observable to increase the smelting capacity in the districts now suffering, while the danger of having to pay excessive rates for refining continues:

And whereas the establishment of a lead-refinery readily accessible to the lead-producing districts would undoubtedly lead to the erection of more furnaces, and thus afford the lead-mining industry the relief it now so urgently stands in need of:

Therefore, be it Resolved, That this House, being of the opinion that the establishment of a lead-refinery in an accessible position in the Province of British Columbia is the surest and best way of fostering and encouraging the lead-mining industry of British Columbia, and that a bounty for five years of $5 per ton on pig lead, the product from ores mined, smelted, and refined in British Columbia, would be of great assistance to establish this new industry, would respectfully request the Government of this Province to take this matter into their serious consideration.

Be it further Resolved, That if a bounty be granted, the Provincial Government should retain the power of interfering in case more than fair and profitable rates were charged.

Mr. Speaker BOOTH ruled the motion out of order, as leading up to the expression of an express or abstract opinion of the House, recommending the expenditure of public money. (*See* Rule 118.)

Motions leading up to the expenditure of public moneys cannot be moved unless recommended by the Crown.

18th March, 1898. Journals, p. 66.

Mr. Helmcken moved, seconded by Major Mutter,—

That the present condition of the Provincial Lunatic Asylum demands the immediate attention of the Government.

Mr. Speaker BOOTH ruled the motion out of order, as leading up to an expenditure of public money.

18th March, 1898. Journals, p. 67.

Mr. Sword moved, seconded by Mr. Kennedy,—

Whereas the Province of British Columbia received from the Dominion of Canada in 1874 and 1875 two sums amounting in the aggregate to $339,150, and such sums were treated as an increase of the Provincial debt, and the annual payment of interest (due from the Dominion to the Province on the amount by which the debt of the Province of British Columbia fell short of the debts of the other Provinces) proportionately reduced:

Resolved, That it would be in the interest of the Province that the above sums so advanced should now be repaid to the Dominion.

Mr. Speaker BOOTH: This motion, if passed, would be tantamount to a direction to the Government to make a payment out of the consolidated revenue of the Province for the purpose stated in the motion, and the same has not received the recommendation of the Crown. (*See* Speakers' Decisions, pages 137 and 138.) I therefore rule the motion out of order.

21st March, 1898. Journals, p. 70.

Mr. Sword moved, seconded by Mr. Semlin,—

Whereas in 1874 and 1875 the Province of British Columbia received from the Dominion Government two sums amounting in the aggregate to $339,150, and the semi-annual payment of interest from the Dominion to

the Province (on the difference between the debt of the Province of British Columbia and the debts of the other Provinces) was proportionately reduced:

And whereas the "British North America Act," sections 114, 115, 116, as set forth in section 2 of the Terms of Union, provides that the Dominion shall pay to the Province interest semi-annually on such difference at the rate of 5 per cent. per annum, and any charge in said Act would be *ultra vires* both of the Dominion and the Provincial Legislatures:

And whereas the Provincial legislation sanctioning the acceptance of such sums from the Dominion and the Dominion legislation authorizing their being advanced, each specifically provide for their repayment, the Provincial at any time and the Dominion as may be jointly agreed on:

And whereas the inscribed stock of the Province bearing 3 per cent. interest is now quoted in the market above par:

And whereas the investments of the trustees for the sinking funds of the various loans in inscribed stock, at the present rates, do not yield quite 3 per cent. per annum:

And whereas the repayment of the aforesaid advances would result in a saving to the Province of between $6,000 and $7,000 per annum, and to this extent relieve the burthens of the people:

Resolved, That the Government be respectfully requested to consider the best way of arranging for the repayment to the Dominion of these advances.

Mr. Speaker BOOTH: This motion is in effect the same as the motion ruled out of order on the 18th inst. (*see* previous ruling), and although it has been redrawn, is still open to the same objection as the previous motion. It virtually directs the Government to repay to the Dominion Government certain advances, and only leaves it to the Government to consider the best way of doing so.

It is a well-known principle that no charge can be imposed on the public revenue without the recommendation of the Crown, and such motions, when the Crown has recommended the same, must be considered in Committee of the Whole. (*May*, pages 527, 529, and Rules 58, 117.)

In the English House of Commons motions advocating public expenditure, or the imposition of a charge, if the motion be framed in sufficiently abstract and general terms, can be entertained and agreed to by the House (*see* May, page 539); but by our Rule 118, even resolutions leading up to the expression of an abstract opinion recommending the expenditure of public money are prohibited unless recommended by the Crown. I therefore rule the motion out of order.

A motion the passing of which would involve expenditure of public money cannot be moved.

Mr. Hawthornthwaite moved, seconded by Mr. Williams,— 7th March, 1908. Journals, p. 126.

Whereas John Gemmell, owner of certain land on Semiahmoo Bay, has been deprived of all that portion of his land bordering on the bay aforesaid, by action of the Chief Commissioner of Lands and Works, and order of Arbitration Court and judgment given by Justice Irving:

And whereas no Arbitration Court, Chief Commissioner of Lands and Works, or Justice of the Supreme Court is vested with authority to

deprive any subject of his riparian or littoral rights, which include free and unobstructed access to the water, the room for landing boats and drying nets, etc.:

And whereas it is the duty of the Government to protect the said John Gemmell in all his rights aforesaid:

Be it therefore Resolved, That the Honourable the Attorney-General be instructed to make due inquiry into all these matters and take such steps as may be necessary to secure the said John Gemmell in possession of all such littoral rights as he is entitled to under the common law of England and statute law of British Columbia.

Mr. Speaker EBERTS ruled the motion out of order, as involving the expenditure of public money.

The Chair was sustained on appeal.

31st January, 1913. Journals, p. 23.

Mr. Williams moved, seconded by Mr. Place,—

Whereas for a period exceeding five months a strike or lock-out has existed at the mines of the Canadian Collieries (Dunsmuir), Ltd., on Vancouver Island:

And whereas the said strike or lock-out has resulted in much hardship and financial loss to the mine-workers and other citizens of Cumberland and Ladysmith:

And whereas by reason of the closing of the mines in question a very serious shortage of fuel has and does exist in the cities of Vancouver and Victoria:

And whereas the mine-workers believe that the question at issue between themselves and the Canadian Collieries (Dunsmuir), Ltd., is a question as to the safety of their own lives while following their employment in the mines:

Therefore, be it Resolved, That in the opinion of this House the Government should immediately take such steps as will determine whether the questions at issue between the Canadian Collieries (Dunsmuir), Ltd., and its employees are questions of safety of the life of the mine-workers.

Mr. Speaker EBERTS ruled the motion out of order, on the ground that the passing of the same would necessarily involve an expenditure of public moneys by the Government.

The Chair was sustained on appeal.

21st February, 1881. Journals, p. 20.

Mr. McGillivray moved, seconded by Mr. Harris,—

That in the opinion of this House it is expedient to establish a Registry Office at New Westminster, under the provisions of the "Land Registry Ordinance, 1870," for the convenience of the inhabitants of the Mainland.

Mr. Speaker WILLIAMS ruled the motion out of order.

A motion for Committee of the Whole to consider claims, with a view to the payment of the same by the Crown, cannot be moved.

17th February, 1881. Journals, p. 19.

Moved by Mr. Drummond, seconded by Mr. Ferguson,—

That this House do resolve itself into a Committee of the Whole for the purpose of considering the claims of creditors of Messrs. Reed Bros., on account of Cofferdam claims.

The motion, as it appeared on the notice paper, reads as follows:—

"That this House do resolve itself into a Committee of the Whole for the purpose of considering the claims of creditors of Messrs. Reed Bros., on account of Cofferdam claims, with a view to adjusting such claims out of any moneys which may be found due from the Government to the contractors in respect of Cofferdam."

Mr. Speaker WILLIAMS ruled the motion out of order, as it conflicted with section 54 of the "British North America Act," and the Honourable Member cannot drop the latter portion of the motion without giving an amended notice. (*See* English Rule 113, *Lefevre*, page 328.)

The Chair was sustained on appeal.

A Committee of the Whole cannot recommend the expenditure of public money.

Mr. Wilson moved—That this House do resolve itself into a Committee of the Whole for the purpose of considering the advisability of offering a reward for the discovery of a new goldfield. 3rd April, 1886. Journals, p. 86.

Ordered, That the House do resolve itself into the said Committee now.

(IN THE COMMITTEE.)

Resolved, That this Committee respectfully recommend that the Lieutenant-Governor in Council do offer a reward of not less than $5,000 for the discovery of a new goldfield, upon such terms and subject to such conditions as the Lieutenant-Governor in Council may deem expedient.

Upon Mr. Speaker resuming the Chair, Mr. Raybould, Chairman of the Committee, reported the Resolution.

Mr. Speaker MARA ruled the Report of the Committee out of order.

A motion for a Committee to consider proposed legislation re loans to farmers requires consent of a Minister of the Crown before it can be put.

Mr. Kidd moved, seconded by Mr. Graham,— 8th March, 1898. Journals, p. 46.

That a Select Committee be appointed to inquire into the advisability of procuring, through legislation, loans for farmers at a low rate of interest, and to report to this House. Committee to be named by the Hon. the Premier and the Leader of the Opposition.

Mr. Kellie moved in amendment, seconded by Mr. Hume,—

To insert in the third line, after "farmers," the words "or miners."

Mr. Speaker HIGGINS ruled the motion and amendment out of order, the Ministers of the Crown not having signified their consent to the motion being moved.

A petition leading up to the expenditure of public money, but not asking for it, allowed to be received.

Mr. McGregor presented a petition from Thos. Kitchin and others, *re* railway from Glenora to Teslin Lake. 25th April, 1898. Journals, p. 131

Mr. Semlin objected to the petition being received, as leading up to the expenditure of public money.

Mr. Speaker BOOTH: Neither *May* nor our Rules and Orders place any restriction on the right to petition the House on any subject that is not in violation of the Rules of the House and Practice of Parliament.

It is therefore for me to consider in what way (if at all) this petition violates the Rules of the House, etc.

The petition states in effect the desirability of prompt steps being taken with reasonable diligence to provide for the commencement of a line of railway from Glenora to Teslin Lake, and concludes with the following prayer: "Your petitioners, therefore, humbly pray that the above-mentioned matters may receive your early consideration, and your petitioners, as in duty bound, will ever pray."

The petition has been skillfully drawn to meet the very objection that is taken to it.

No public aid is directly or indirectly asked for, the prayer being limited to a request to the House to give early consideration to the matter referred to.

I am of opinion that the petition is more properly classed as one in respect of a general measure of public policy, and does not require the recommendation of the Crown to enable the same to be presented and received. (*See May*, 10th edition, 495, 531; *see also* Speakers' Decisions, page 133, where a resolution was passed to consider the advisability of offering a reward for the discovery of a new goldfield, but when the Committee of the Whole went further and reported recommending that the Lieutenant-Governor in Council should offer a reward of $5,000, the report was promptly ruled out of order.)

The petition was received and *Ordered* to be printed.

Bills for grant of public money originate in Committee of the Whole. Bills for other purposes, incidentally requiring the application of public money, may be introduced on motion.

9th March, 1886. Journals, p. 45.

Motion for the second reading of Bill (No. 3) intituled "An Act respecting the Consolidation of the Statute Laws of British Columbia."

Objection taken by Mr. Beaven, that the Bill should be brought down by Message from His Honour the Lieutenant-Governor and originate in Committee on the Whole.

Mr. Speaker MARA: When the main object of the Bill is the grant of money, it is invariably brought in upon the resolution of the Committee of the Whole in the first instance; but when it becomes incidentally necessary to authorize the application of money to a particular purpose, the Bill may be introduced upon motion. The practice and rule require that the money clauses should be considered in Committee of the Whole; and in order to accomplish this object, without any violation of the Standing Order, the money clauses are originally produced in italics. Such clauses form no part of the Bill as originally brought in, and are treated as blanks. The object in printing these clauses in italics is to direct the attention of the Chairman that they are money clauses; but as Speaker Kirkpatrick, in the Canadian House of Commons, in deciding a similar point of order on April 1st, 1884, said, I do not think we ought to allow the printer, by using one type or another, to cast a Bill.

Although the Bill is in order, and can be read a second time, I think clause 2* ought not to be considered as part of the Bill until it has been reported upon by a preliminary Committee.

* Clause 2 of the Bill was as follows:—
2. It shall be lawful for the Lieutenant-Governor in Council to issue his warrant to the proper officer for any sum or sums as he may think fit, as a remuneration for the said Commissioners, and also for such further charges and expenses as shall have been incurred, laid out, and expended in the printing and binding of the said Acts, Ordinances, and Proclamations, or incident thereto.

A Bill requiring the expenditure of public money cannot proceed without a recommendation by Message.

On the second reading of Bill (No. 44) intituled "An Act to amend the 'Provincial Home Act,'" a point of order arose, upon which Mr. Speaker EBERTS gave the following ruling:— 5th March, 1908. Journals, p. 109.

On the motion by the Hon. Member for Rossland for the second reading of this Bill, the Hon. the Premier raised a point of order that the Bill could not be introduced by a Private Member.

Section 2 of the Bill purports to amend subsection (*a*) of section 7 of the "Provincial Home Act" (Revised Statutes, B.C.).

The principal Act was passed in the year 1893, and empowers the Lieutenant-Governor in Council to erect, establish, and maintain a Home for the support of destitute residents of the Province under the conditions therein prescribed by the Act.

The conditions of admission to the Home are set out in section 7 and subsections. Among others who may be admitted to the Home are adults, other than Indians or Asiatics, who—

"(*a.*) Has been a bona fide resident of the Province for at least fifteen years immediately preceding the time of application for admission and are domiciled elsewhere than in a municipality."

By the Bill before the House it is sought to amend subsection (*a*) by adding the following words after "municipality": "or has been a bona fide resident of the Province and actually engaged as a workman in industries in the Province for a period of at least five years immediately preceding the time of application for admission."

No consent of a Member of the Government has been obtained authorizing the introduction of the Bill by the Member in charge of same. Each year, upon a Message, an item appears in the Estimates to be expended towards the maintenance of the Home and its inmates.

The passage of the amendment would create a new class of persons participating in the comforts of the Home, and whose support will be taken from the fund, which is a part of the public revenue, and no appropriation of same, directly or indirectly, can lawfully be made without first being recommended by Message, which has not been done. I therefore am of opinion that the Bill should go no farther in its present shape.

An amendment to a Bill, the effect of which would increase a public grant or bonus, cannot be moved.

The Report on Bill (No. 84) intituled "An Act to authorize a Loan of Five million Dollars for the Purpose of aiding the Construction of Railways and other Public Works," was considered. 9th May, 1901. Journals, p. 133.

Mr. Neill moved to amend section 8, subsection (*b*), by inserting after the word "Island," in line 11, the words "and for a railway between Nanaimo and Alberni."

Mr. Speaker BOOTH ruled the motion out of order, as the effect of the same would be to increase the length of the line, and thus increase the amount of the bonus to be granted.

The Chair was sustained on appeal.

Amendments to Bills in the House or in Committee involving the expenditure of public money cannot be moved.

15th April, 1897. Journals, p. 115.

The Hon. Mr. Turner moved—That Bill (No. 54) intituled "An Act to authorize a Loan of Two million five hundred thousand dollars for the Purpose of aiding the Construction of Railways and other Public Works" be read a second time now.

29th February, 1908. Journals, p. 93.

On the consideration of the Report on Bill (No. 43) intituled "An Act to amend the 'Jurors Act,'"—

Mr. Williams moved in amendment to add the following as section 12:—

"12. Section 84 of the said chapter 107 is hereby amended by striking out the word 'two' wherever it occurs in the fourth line thereof, and inserting in lieu thereof the word 'three.'"

A point of order was taken, viz., that the proposed amendment interfered with the revenue and expenditure of the Province.

Mr. Speaker EBERTS held the point well taken and ruled the motion out of order.

Mr. Semlin moved in amendment, seconded by Mr. Sword,—

To strike out all the words of the motion after the word "That," and insert in lieu thereof the words "the order for the second reading be discharged and the Bill withdrawn, to enable the Government to submit to the Legislature, instead of the present Bill, a measure for procuring at once a survey of the country between Hope and Penticton preliminary to construction as a public work of a line from the Coast to Penticton, and the immediate construction as a public work of a railway from Penticton to Boundary."

Mr. Speaker HIGGINS ruled out of order all the words of the amendment after the word "withdrawn."

On same Bill in Committee.

22nd April, 1897. Journals, p. 127.

Mr. Helmcken moved to add as a new section, to be known as section 19:—

"19. The Lieutenant-Governor in Council, at any time hereafter on giving two years' notice to the Company, may acquire any line of railway to which a subsidy has been granted, paying to the Company therefore:—

"(*a.*) Should the railway be taken over at any time within ten years from the date of the payment of the subsidy, the amount

of money bona fide expended in actual construction over and above the amount of the subsidy herein authorized, and any additional aid which may be obtained from the Dominion Government or any other Government or corporation, together with such further sum as, after allowing for any surplus of receipts over working expenses, will make up ten per centum per annum; or

"(*b.*) Should the railway be taken over at any time after the aforesaid date, such sum as the railway may at that time be valued at, less the amount of the subsidy contributed by the Province and without making any allowance for the value of the franchise, and an additional amount of ten per centum on such valuation:

"(*c.*) In either event, the debts and bonded indebtedness of said railway to be purchased shall be deducted from the amount of the purchase-money, and the balance (if any) to be paid to the Company."

Ruled out of order.

An amendment to a Private Bill in Committee giving the Crown the right of purchase does not impose any obligation on the Government.

Bill (No. 12) intituled "An Act to incorporate the Vancouver and Westminster Railway Company" was committed. 13th August, 1900. Journals, p. 131.

The Chairman reported that a point of order had arisen in the Committee, which he was instructed to refer to the Speaker to decide. It was proposed to add to the Bill the following clause:—

"(*c.*) The Provincial Government shall have the right, ten years from the passing of this Act, upon giving one year's notice of its intention so to do, to purchase all the Company's property, rights, and franchises at the fair market value of its corporeal property, together with such bonus (if any) not exceeding ten per cent. of such market value as the Government may agree to pay."

Objection was taken that the clause involved an expenditure of public money, and was out of order.

Mr. Speaker BOOTH ruled that the clause would impose no obligation on the Government, but on the Company only, and was therefore in order.

Motion to amend Bill in Committee increasing amount payable by the Crown not in order.

Bill (No. 29) intituled "An Act to amend the 'Jurors' Act'" was committed. 24th February, 1909. Journals, p. 64.

A point of order having arisen in the Committee, Mr. Speaker resumed the Chair.

Mr. Speaker EBERTS: The Chairman reports that an amendment to the Bill had been moved, the effect of which, if carried, would be to increase the amount payable by the Crown to jurors from $2 to $3 per day, and that on objection he had ruled the same out of order, as interfering with revenue and expenditure. I think the objection is well taken and that the Chairman's ruling is correct, and I so decide.

The Chair was sustained on appeal.

ROYAL COMMISSION.

A resolution for, is not a motion for the appropriation or expenditure of public money, and does not contravene Rule 55.

3rd March, 1909. Journals, p. 93.

The House resumed the adjourned debate on the motion moved by Mr. Oliver on February 24th, as follows:—

"Whereas it would appear that the cost of coal to the consumer in the Province of British Columbia is out of all proportion to the cost of production:

"And whereas, owing to the abundance of the coal-deposits in this Province and the proximity of the sources of supply to the market, the cost of coal to the consumer in British Columbia should be much less than at present is the case:

"And whereas the excessive price of coal in British Columbia has the effect of retarding and preventing the establishment in this Province of industries depending upon a fuel supply:

"And whereas much of the product of the coal-mines of the Province is being exported to foreign markets and sold at a price that enables it to compete with coal from other countries in such foreign markets:

"And whereas a belief exists that an understanding exists between the persons or corporations controlling or owning such coal-mines to maintain the high prices now being charged to consumers in this Province:

"Therefore, be it Resolved, That an humble Address be presented to His Honour the Lieutenant-Governor by this House, praying him to appoint a Royal Commission to inquire into the following questions:—

"1. Whether or not a combine or understanding exists amongst the coal producers, or any of them, of this Province to establish and maintain prices charged for coal.

"2. Whether or not coal is being sold by producers, or any of them, for consumption outside British Columbia for a less price than that sold for consumption in the Province.

"3. Whether or not the prices charged by the producers, or any of them, for coal consumed in British Columbia is excessive.

"4. Whether or not the prices charged by the producers, or any of them, of coal in British Columbia bears a reasonable proportion to the cost of production."

Upon the point of order raised by the Hon. the Premier, Mr. Speaker EBERTS gave the following decision:—

On moving the above Resolution, a point of order was taken that the Resolution was out of order in that if it passed, and a Royal Commission of inquiry should be appointed, an expenditure of money would of necessity have to be made, and as such a Resolution did not originate in the Committee of the Whole House, it was out of order.

I do not look at a Resolution of this kind, having for its main object the presentation of an Address to His Honour the Lieutenant-Governor, praying him to appoint a Commission to inquire into certain questions set out in the Resolution, as an infringement of Rule 55.

The Resolution asks for a Commission to inquire into certain matters of fact which, if true, would be breaches of the Criminal Law, and therefore come under the administration of Justice and the good government of the Province.

The power of appointment under section 4 of the "Public Inquiries Act" authorizes the Lieutenant-Governor in Council to appoint Commissioners to inquire into the administration of Justice and the good government of the Province, and as such Act authorizes the Lieutenant-Governor in Council to make provision for defraying the expenses of such a Commission and a fund is provided therefor upon Message, I am of the opinion that the Resolution is not one in contravention of section 55 of our Rules, whereby it is declared that the House may not adopt or pass any Vote, Resolution, Address, or Bill for the appropriation of any part of the public revenue to any purpose that has not been first recommended by Message. The Resolution is in order.

SUPPLY.

Preliminary resolutions for Committee of Supply are debatable.

14th and 15th March, 1898. Journals, pp. 56, 58.

Pursuant to Order, the adjourned debate on the motion of the Hon. Mr. Turner—

"That the House resolve itself into a Committee of the Whole to consider the motion 'That a Supply be granted to Her Majesty'"—

was resumed.

A point of order having arisen as to whether the motion was debatable, Mr. Speaker BOOTH ruled as follows:—

On 8th March, upon the question being proposed "That I do leave Chair, and that the House resolve itself into a Committee of the Whole to consider the motion 'That a Supply be granted to Her Majesty,'" a debate arose. Objection is taken that the motion is not debatable. Under Rule 116, which follows English Standing Order 54, the Committee of Supply and Ways and Means should be set up as soon as the Address in reply to the Speech of His Honour the Lieutenant-Governor is agreed to. This rule has never been followed. A practice has grown up, ever since Confederation, of combining two separate and distinct matters in one resolution.

When the House passes the Address to the Crown it expresses its willingness to grant supplies. This consent carries with it assent to the creation of the body out of which all questions of supply must originate. Hence the merely formal motion, not debatable, and of which no notice is required, is passed, creating the Committee of Supply. (*See May*, 254; Rule 116; English Standing Order 54. *See also* English *Hansard*, 1348 (1887).)

The latter part of the Resolution refers to something which is to be done in the Committee of the Whole. The Committee are to consider a matter which involves a charge on the public, and under Rule 117 such motions can only be introduced by notice, and must be referred to a Committee of the Whole for consideration.

According, therefore, to Rule 117, if the House cannot take cognizance of any matter of supply until it has been first considered in a Committee of the Whole, it would seem that there could be no debate on any matter coming within the range of the budget, because it is not before the House and cannot be so brought until the Committee reports favourably "That a Supply be granted," and the matter has been fully disclosed by the budget speech. This would reduce the range of possible discussion to narrow limits.

The only question, it seems to me, the House has to consider at present must be, "Is the present an opportune time to consider the question 'That a Supply be granted?'" and as all motions are debatable, except where expressly provided by the rules to the contrary, and I can find no authority affecting the application of the general rule to motions under Rule 117, I must decide that discussion covering that point will be in order, limited as before stated.

Motion. Dictating policy. On motion for Committee of Supply.

Mr. Sword moved, seconded by Mr. Semlin,— 15th March, 1898. Journals, p. 58.

That before considering the question of granting a Supply to Her Majesty, all Bills that it is proposed to introduce bearing on the subjects touched on in His Honour's Speech, or any other important measures, should first be submitted to the House.

Mr. Speaker BOOTH ruled the motion out of order, as dictating to the Ministers of the Crown what Bills should be brought in, and when they should be brought in.

The Chair was sustained on appeal.

Amendments to motion for Committee of Supply. When an amendment to the question for Mr. Speaker leaving the Chair has been negatived, no further amendment can be moved.

The House resumed the adjourned debate on the motion—"That Mr. Speaker do now leave the Chair, for the purpose of going into Committee of Supply." 5th May, 1902. Journals, p. 95.

Mr. Taylor moved, seconded by Mr. Murphy,—

To add after the word "Chair":—

"But this House condemns the practice, now sought to be introduced, of voting supplies for roads, streets, and bridges in the various districts in a lump sum instead of appearing in detail as heretofore."

Mr. A. W. Smith raised the point of order that the amendment was out of order, on the ground that an amendment having already been moved, and the House having decided "That the words 'I do now leave the Chair' should stand part of the question," no further amendment could be moved thereto.

Mr. Speaker POOLEY: I consider the point well taken. At page 574, *May*, 10th edition, it is stated that "when an amendment to the question for the Speaker's leaving the chair has been negatived, as it has been decided that the words proposed to be left out shall stand part of the question, no further amendment can be moved thereto." I interpret the word "thereto" to mean that the main resolution cannot be amended by the addition of words, as there would be no sense in suggesting that the word "thereto" was confined to the amendment of the words merely, as the House has already decided that they shall stand part of the question. I have searched very carefully through the English *Hansard*, and I cannot find any occasion on which the main question has been amended by adding words thereto.

On page 574, *May*, it is stated that where there are a number of notices of amendments given the Speaker endeavours to follow the order thereof, etc.

Amendments are frequently called up one after another in the English House of Commons, as they are simply brought up for discussion and then withdrawn, so that other amendments follow the same course; but whenever an amendment has been negatived, no other amendment can be moved to the main question. (*See May*, 10th edition, page 574, and page 575, Note 2, and Members' Manual, Ontario, 2nd edition, page 106.) But the general debate on the main question can be maintained by members who have not spoken to the main question, or moved or seconded an amendment thereto.

Amendments to the main question are proposed by striking out all the words after "That" and substituting other words. This appears to be the only course adopted, so far as I can find by a close inspection of the English *Hansard* debates. (*See also* Members' Manual, Ontario, 2nd edition, page 31, where it states amendments may be moved to the question "That Mr. Speaker do now leave the Chair," by leaving out all the words after the word "That" and substituting other words.)

Mr. Curtis, Member for Rossland, asked me to state what would be the position if the words after "That" were struck out and the House refused to insert the words of the amendment proposed to be inserted, as there would only be the word "That" left. The practice seems to be to suggest various amendments until the House has found one that commends itself to them. (*See* E. *Hansard*, Vol. 180, pages 369-427.)

Great latitude is allowed in discussing the question "That Mr. Speaker leave the Chair," subject to the limitations mentioned on page 572, *May*.

Notice is required of amendments on going into Committee of Supply. A Member cannot move the adjournment of the debate a second time.

29th April, 1902. Journals, p. 88.

The House resumed the adjourned debate on the motion—"That Mr. Speaker do now leave the Chair, for the purpose of going into Committee of Supply," and the amendment thereto moved by Mr. Tatlow on the 28th April, as follows:—

To leave out all the words after "That," and insert the following: "this House cannot approve of the system adopted by the Government in the disposition of the moneys appropriated to the various ridings, whereby appropriations for ridings represented by Members of the Opposition have been reduced to such an extent as to render the proposed votes insufficient and unworkable."

The House continued to sit after midnight.

At 2.30 o'clock a.m. Mr. McBride moved the adjournment of the debate. Negatived.

At 5.45 o'clock a.m. Mr. McBride moved the adjournment of the debate. A point of order arose thereon.

Mr. Speaker POOLEY: It is doubtful if the motion can be moved twice by the same Member. I will allow the motion to be put, but it is not to be considered as a precedent. I will look further into the matter.

Motion negatived.

Mr. Hunter raised the point of order that amendments to the question "That I do leave the Chair, for the purpose of going into Committee of Supply," required notice; that no notice of the amendment under debate had been given, and that the same was therefore out of order.

Mr. Speaker POOLEY: This is the first time this point has arisen. We have no rule on the subject, and therefore fall back upon the practice of the English House of Commons. *May*, pages 235, 275, and 574, clearly shows that notice is required. I must rule the amendment out of order.

Amendments to report from. Consideration of the Report of Resolutions from Committee of Supply.

Resolution 215.

2nd February, 1904. Journals, p. 87.

Mr. Oliver moved that the vote be struck out.

Mr. Henderson raised the point of order that it was incompetent to move to strike out the vote, because the same was a fixed statutory charge imposed by and under chap. 1 of the Statutes of 1901, intituled "An Act to regulate the appointment of Agent-General."

Mr. Speaker POOLEY: The Act in question does not authorize the expenditure of public moneys. The Supply Bill alone is the only authority for that purpose. The Public Loan Bills direct and provide for payment of interest, and the "Constitution Act" provides for payment of indemnity and mileage to Members of the Legislative Assembly; yet neither of these Acts are authority for the payment of public moneys to meet these charges. They must be provided for in the Estimates in the usual way.

The motion is in order.

With leave of the House, Mr. Oliver then withdrew his motion.

Supply Bill may be read first time on same day as reported from Committee of the Whole.

Resolved, That Bill (No. 72) intituled "An Act for granting certain Sums of Money for the Public Service of the Province of British Columbia" be reported to the House.

19th April, 1907. Journals, p. 100.

The Chairman reported the Resolution and the Bill.

Report adopted.

On the first reading of the Bill, Mr. Oliver objected to this stage being passed on the same day the Committee of the Whole had reported the same.

Mr. Speaker EBERTS ruled the motion in order, citing *May*, 10th edition, pages 529, 560, and 590.

SUSPENSION OF RULES.

Facilitating public business.

30th August, 1900. Journals, p. 187.

The adjourned debate on the second reading of Bill (No. 65) intituled "An Act to amend the 'Queen's Counsel Act, 1899'" was resumed.

Bill read a second time.

On the motion to commit the Bill forthwith, objection was taken that the Bill could not be committed at the present Session, as it could not pass through two stages on the same day.

Mr. Speaker BOOTH: The House, by resolution during the afternoon session, suspended the Standing Rules and Orders so as to facilitate the transaction of public business.

Objection was then taken that the said suspension of the Rules was only for the then pending session, and did not apply to the following sitting.

Mr. Speaker BOOTH: The Rules were suspended in order to facilitate the completion of the unfinished business of the House, this being presumably the last day of the Session. As the business referred to by the motion was not concluded at the afternoon session, I shall hold that the suspension applies, until revoked, with equal force to the remaining session of the House until the public business is concluded as stated.

Bill committed.

Unanimous consent or notice required.

27th August, 1900. Journals, p. 180.

Mr. R. Smith moved, seconded by Mr. Neill,—

That the Standing Rules be suspended, to enable him to move the adoption of the Report of the Select Committee appointed to inquire into grievances from certain settlers within the E. & N. Railway Belt.

Objection being made, the motion was not put from the Chair.

TAXATION.

Tax Bills must be recommended by the Crown and introduced in preliminary Committee.

The Hon. Mr. Cotton moved the second reading of Bill (No. 38) intituled "An Act to amend the 'Revenue Tax Act.'" 8th February, 1900. Journals, pp. 54, 57.

A point of order arose, upon which Mr. Speaker FORSTER gave the following decision:—

I find the point of order raised by the Junior Member for Esquimalt (Mr. Higgins) against Bill (No. 38) to be well founded.

May, page 527, lays down the rule that all Bills or motions creating a charge on the public revenue must receive the recommendation of the Crown and be introduced in preliminary Committee. On pages 531 and 532 the same procedure is declared to apply to the taxation levied to provide that revenue.

Tax Bill. Instruction to the Committee to amend the Bill varying the incidence of taxation cannot be moved.

Moved by Mr. Mara, seconded by Mr. Smithe,— 13th March, 1879. Journals, p. 34.

That Bill No. 23, intituled "An Act to amend the Assessment Act," be recommitted for the purpose of inserting as subsections (4), (5), and (6) of clause 6 the following:—

"(4.) Land upon which five head of horses or cattle per one hundred acres are depastured: Provided such exemption shall not extend to lands of a value not exceeding five dollars per acre.

"(5.) Land upon which fifteen head of sheep per one hundred acres are depastured: Provided such exemption shall not extend to lands of a value exceeding five dollars per acre.

"(6.) Land upon which horses, cattle, or sheep, or any of them, are depastured together, the total number being in accordance with the proportion established by the two preceding sections: Provided such exemptions shall not extend to lands of a value exceeding five dollars per acre."

A point of order having been raised,—

Mr. Speaker WILLIAMS ruled that the proposed amendment being one that would vary the incidence of taxation, he would follow English Parliamentary practice, and not put the question.

Bills imposing taxes should be introduced by a member of the Government.

Mr. Speaker TRIMBLE: The Chairman of the Committee on Bill No. 8, intituled "An Act relating to certain Acts and Ordinances," reports the Bill complete, with amendments. 19th March, 1878. Journals, p. 91.

The amendments made to the Bill were proposed by a Private Member, the Honourable Member for Victoria City (Mr. Drummond).

These amendments, in addition to taxes imposed by the Bill before amendment, impose the following further taxes, viz.:—

"Upon any person practising as a physician, surgeon, or land surveyor, twenty-five dollars for every six months."

A point of order has been raised by the Honourable Member from Comox, that the taxes proposed by the amendment were not recommended by Message from His Honour the Lieutenant-Governor, and are therefore in contravention of the provisions of the 54th section of the "British North America Act," which provides that the House "shall not adopt or pass any Vote, Resolution, Address, or Bill for the appropriation of any part of the public revenue, or of any tax or impost to any purpose, that has not been first recommended by Message of the Lieutenant-Governor," etc.

Neither the Bill nor amendment propose to appropriate any portion of the public revenue, or any part of any tax or impost upon the people, and the provisions of this section do not therefore apply in the present instance.

This position is borne out by the proceedings of the House of Commons at Ottawa, and the authority hereinafter referred to.

The objection of the honourable gentleman from Comox is therefore untenable, and falls to the ground.

It is, however, a Bill that should, according to Rule 117 of our Rules and Orders, originate in Committee of the whole House, and should be introduced by a member of the Government.

Mr. Speaker Cockburn, in deciding upon a point or order raised on the second reading of a Bill to remove doubts as to the liability to stamp duties of premium notes taken or held by mutual fire insurance companies, objecting that the Bill must, under the 54th section of the "British North America Act," be first recommended by Message from the Crown, and also that the Bill should originate in Committee of the Whole, gave his decision as follows:—

"There being no appropriation of money proposed, there need be no recommendation from the Crown, and the objection rests on the ground that as it involves an additional charge upon the people the Bill should have originated in Committee of the Whole, and should have, moreover, been proposed by a Minister."

Instances may undoubtedly be found in the Journals of the English House of Commons of Bills and motions being introduced by Private Members to increase taxation, some of which have passed unchallenged, whilst in other cases the indirect assent of a Minister has been deemed sufficient.

Recently, however (in 1869), a high authority (Sir Thomas Erskine May) stated before a Joint Committee of the two Houses of Parliament "that no Private Member is permitted to propose an Imperial tax upon the people. It must proceed from a Minister of the Crown, or be in some form declared to be necessary for the public service." (*See* Speakers' Decisions, by *Lefevere.*)

Where the general question of a revision of the Customs duties has been submitted to the House by the Crown, it is competent for a Member (to a certain extent) to increase or to diminish a particular rate of duty proposed, or even to insert in the schedule a new rate of duty, provided it relates to an article already included therein.

But this amendment goes further, it imposes new and distinct taxes. (*See Todd*, 451, 452.)

Further than this, the amendment was not a matter which had been committed to the Committee by the House for the additional taxes proposed by the amendment had not been previously reported by a Committee and agreed to by the House. (*See May*, pages 362, 470.)

It might be argued that, this being a Bill relating to municipalities, the amendment was in order in accordance with *May*, page 448, which states "That the rule has been held not to apply to Bills authorizing the levy or application of rates for local purposes, by local officers or authorities representing or acting on behalf of the ratepayers." And on page 449 of the same distinguished authority it states "that local rates never have been regarded as coming within the Standing Order," i.e., the Standing Order of the English House of Commons, from which our Rule, No. 117, is copied verbatim.

But on looking into the Bill as introduced and as amended, it will be seen that the Bill imposes certain taxes on barristers, attorneys, physicians, surgeons, and land surveyors generally throughout the Province, i.e., the taxes or imposts are Provincial taxes and not merely municipal rates, and therefore do not come within this exception to the general rule.

To follow the practice of *this* House would be irregular; the rules in respect to Bills, subject to the provision of the 54th section of the "British North America Act" and Rule 117 of our Rules and Orders, not having been regarded in former years. Among instances of such disregard of Parliamentary practice, Bill No. 11 of 1876, and Bill No. 13 of 1877, and Bill No. 12 of 1878, may be cited.

Bill No. 11 of 1876 was amended, in the same manner as it is proposed to amend the Bill in the present instance, by inserting as subsection (*q*) the following:—

"(*q.*) By every person not being a permanent resident in British Columbia, and not being a commercial traveller, who trades or sells any goods whatsoever in the Province, one hundred and fifty dollars in advance every year: Provided that in the Electoral District of Kootenay the sum of one per cent. only shall be paid by any person engaged in the business of packing, on the gross value of the cargo."

Bills Nos. 13, of 1877, and 12, of 1878, each appropriated $15,000 of the consolidated revenue of the Province, and in contravention of the 54th section of the "British North America Act" both these Bills were introduced without a Message from the Crown recommending the same.

With respect to the rule that such a Bill or motion as the one under discussion should be introduced by a Minister, or if initiated by a Private Member (a practice which should be discouraged), a Minister should assume the responsibility of it.

To follow out the decisions referred to, I shall have to rule the amendment out of order.

If the House agrees with me as to the desirability of adopting this constitutional restriction, it will become my duty to enforce the observance of the rule hereafter.

A motion to add a clause to a Bill imposing a tax and dealing with revenue cannot be moved.

12th March, 1909. Journals, p. 129.

The Report on Bill (No. 81) intituled "An Act to amend the 'Game Protection Act, 1898,'" was considered.

Mr. Hawthornthwaite moved to add the following as a new section:—

"18. No person who is not, or has not been, a registered voter in the Province of British Columbia, or a member of the family of such voter, shall shoot or kill any game without first obtaining a general licence, or permission in writing from the Provincial Game Warden; the fee for such general licence shall be twenty-five dollars ($25)."

Mr. Speaker EBERTS ruled the motion out of order, as imposing a tax and dealing with the public revenue.

Amendments to a Tax Bill, striking out exemptions from taxation therein contained, cannot be moved in Committee of the Whole.

24th March, 1891. Journals, p. 85.

Mr. Speaker HIGGINS gave the following decision:—

I am asked to rule as to the admissibility of an amendment moved in Committee of the Whole by the Hon. Member for Yale (Mr. Semlin) to clause 4 of Bill (No. 66) intituled "An Act to amend the 'Assessment Act.'"

This Bill was reported to the House from the Committee of the Whole.

Clause 4 exempts from taxation certain portions of the works of a railway company.

The amendment proposes to strike out certain of the exemptions. It is claimed by the Hon. the Premier that the amendment is out of order, for the reason that in diminishing the number of exemptions it aims to increase the burden of taxation.

May, page 564 (9th edition), says: "If a schedule of duties has been reported from a Committee, and agreed to by the House, the Committee on the Bill cannot increase such duties, nor add any articles not previously voted." * * * "*But where exemptions from duty are repealed, and the duty therefore increased*, a Preliminary Committee is necessary before the Committee on the Bill can agree to such a provision."

I therefore rule that the amendment is not in order.

Bill interfering with taxation ruled out of order.

27th March, 1893. Journals, p. 91.

Mr. Speaker HIGGINS ruled that Bill (No. 67) intituled "An Act to amend 'An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province,'" was out of order, and could not be proceeded with, as it interfered with taxation.

The Order for the second reading of the Bill was then discharged.

A clause in a Bill directing small fees to be levied on proceedings taken thereunder is a matter of procedure and not dealing with revenue. Powers of Private Members in introducing legislation considered.

Mr. Speaker MABA: On the motion for the second reading of Bill (No. 6) intituled "An Act to repeal the 43 Vict., Chap. 4, intituled 'An Act to abolish Priority of and amongst Execution Creditors,' and for other Purposes," Mr. Beaven raised the following objections:— 6th March, 1883. Journals, p. 24.

"1st. That the Bill dealt with revenue.

"2nd. That the Bill was of such a nature that, if introduced at all, it should be brought in by Government."

Clause 26 of the Act which it is alleged deals with revenue directs certain small fees to be levied on proceedings taken under the Act. The title of the Act (the "Creditors' Relief Act, 1880") shows that the Bill is not a Tax Act, and I think the clause above referred to cannot be said to deal with revenue within the meaning of Parliamentary practice, but partakes more of the nature of procedure, otherwise the majority of the Acts on the statute-book would be open to the same objection.

As to the second objection—

"By modern constitutional practice, Ministers of the Crown are held responsible for recommending to Parliament what laws are required to advance the national welfare, or to promote the political or social progress of any class or interest in the commonwealth; and they are required to prepare and submit to Parliament whatever measures of this description may be needed for the public good; and also to take the lead in advising Parliament to amend or reject all crude, imperfect, or otherwise objectionable measures which may at any time be introduced by Private Members." (*Todd*, Vol. 2, pages 299, 300.)

"On the other hand, it should be freely conceded to Private Members that they have an abstract right to submit to the consideration of Parliament, measures upon every question which may suitably engage its attention, subject only to the limitations imposed by the prerogative of the Crown, or by the practice of Parliament." (*Todd*, page 310.)

Numerous precedents can indeed be adduced of the introduction of important Public Bills by Private Members; but unless with the direct consent and co-operation of Ministers they have never attained the sanction of Parliament.

A most useful purpose is served by the free investigation and debate in Parliament of every question affecting the community at large, by granting to Private Members adequate opportunity for introducing to the notice of Parliament projects for effecting desirable reforms in our political or social system, and by facilitating the discussion of such measures, until public opinion is sufficiently agreed upon them to render legislation not only safe, but expedient, when it will become the duty of the Ministers of the Crown to assume the responsibility of advising the passing of Bills in Parliament giving effect to the same.

The Ministers of the Crown have not offered any objection to the Bill in question; it does not affect the prerogatives of the Crown, and the practice of Parliament does not limit the introduction of such measures to the Ministers of the Crown.

It is not for me, but for the House, to say whether the repeal of the "Creditors' Relief Act, 1880," is such a great and important matter as to require it to be taken up by the Government.

A Bill to amend the Acts for the assessment of taxes cannot be introduced by a Private Member.

24th March, 1890. Journals, p. 85.

Mr. Duck moved—That Bill (No. 52) intituled "An Act to amend the 'Assessment Act'" be read a second time now.

Mr. Speaker HIGGINS ruled the motion and the Bill out of order, as it proposed to interfere with the revenue of the Province and could only be introduced by a Minister of the Crown.

A Bill to repeal a tax cannot be introduced by a Private Member.

25th February, 1886. Journals, p. 36.

Upon the Order of the Day being read for the second reading of Bill (No. 12) intituled "An Act to amend the 'Chinese Regulation Act, 1884,'"—

Mr. Beaven raised the point of order: "That a Bill to repeal a tax could not be introduced by a Private Member."

Mr. Speaker MARA held that the objection was well taken.

An abstract resolution condemning particular taxation as inequitable cannot be put.

5th February, 1894. Journals, p. 22.

Mr. Sword moved, seconded by Mr. McKenzie,—

That in the opinion of this House the incidence of the tax on mortgages is inequitable.

Mr. Speaker HIGGINS ruled the motion out of order by the following decision:—

The Resolution of the Hon. Member for New Westminster District (Mr. Sword), which I asked to have laid over for the purpose of consulting authorities, is as follows:—

"That in the opinion of this House the incidence of the tax on mortgages is inequitable."

It is an important financial principle that the House should not be called upon to condemn taxes which they are not prepared on the instant to repeal, as by so doing they unsettle the minds of commercial men in their business transactions, and occasion embarrassment to the Government in their plans for the regulation of the public finances. Abstract resolutions in regard to particular branches of taxation have been not infrequently submitted to the House of Commons by Private Members, but they have been uniformly resisted by the Government, as being inexpedient and impolitic.

On the 13th March, 1879, Mr. Speaker Williams, sitting in this Chair, ruled that it was incompetent for a Private Member to move an amendment to a Bill that would vary the incidence of taxation.

May, 9th edition, page 575, says: "Where it has appeared that a proposed amendment would vary the incidence of taxation, Mr. Speaker has declined to put the question."

I must therefore rule that the Resolution is not in order and cannot be put.

On 9th February (*see* Journals, page 34) the Chair was sustained on appeal.

A motion proposing indirect taxation by a licence upon employers of Chinese not allowed to be moved.

Upon the motion given notice of by Mr. Watt, as follows:— 29th January, 1894. Journals, p. 15.

"That in the opinion of this House the 'Municipal Act' should be so amended as to empower Municipal Councils to require every person, company, or corporation employing Chinamen in any capacity within the municipality to take out a licence for that purpose, paying to such municipality for such licence a fee of such sum as may be deemed expedient, up to fifty dollars per year for each Chinaman so employed, for a year or portion of a year," being called,—

Mr. Speaker HIGGINS ruled the same out of order, his decision being as follows:—

The Resolution of the Hon. Member for Cariboo (Mr. Watt) proposes to inaugurate a system of indirect taxation, which the Province, not having power to adopt for its own purposes, cannot confer on a municipality. (*See* section 92, "British North America Act," subsec. (2).) The tax, although paid by the employer in the first instance, would indirectly be paid by the employee, as the amount would be deducted from his wages. In view, too, of the decisions of the Supreme Court in the cases of Tai Sing *v.* Maguire and Regina *v.* Wong Chung ("British Columbia Law Reports," Vol. 1, Parts I. and II.), in which it was sought by the Province to impose unequal taxation on Chinese, I think it would be waste of time and money to allow a resolution of this nature to go through, since the principle it involves could not be enforced. I therefore rule that the motion proposes a tax that is *ultra vires* of the power of the Legislature.

(Followed. *See* next ruling.)

Bill imposing indirect taxation.

Mr. Keith moved—That Bill (No. 18) intituled "An Act to amend the 'Coal-mines Regulation Act' and 'Amending Act, 1890,'" be now read a second time. 22nd February, 1894. Journals, pp. 47, 73.

The Honourable Attorney-General raised the point of order that the Bill was unconstitutional.

Mr. Speaker HIGGINS ruled the Bill out of order on the following grounds:—

I rule Bill (No. 18) intituled "An Act to amend the 'Coal-mines Regulation Act' and 'Amending Act, 1890,'" out of order, for the following reasons: First, because it aims to impose indirect taxation, contrary to the provisions of the "British North America Act"; and, second, because it has been decided by the Supreme Court of the Province that the power to impose unequal taxation does not reside with the Provincial Legislature. (*See* previous ruling.)

The Chair was sustained on appeal.

Bill to amend a Government Tax Bill so as to reduce an existing tax. A motion to diminish the proposed reduction is in order.

22nd March, 1905. Journals, p. 71.

Bill (No. 36) intituled "An Act to amend the 'Assessment Act, 1903,'" was again committed.

The Committee reported to Mr. Speaker that the following motion and amendment had been made in Committee:—

"The Hon. Mr. Tatlow moved to amend section 14 (which section fixed the tax on wild land), in line 10, by striking out 'three per cent.,' and inserting in lieu thereof 'four per cent.'

"Mr. Oliver moved in amendment to strike out the word 'four' and insert 'five.'"

That objection had been taken to said amendment, and the Chairman had ruled the same out of order, and that an appeal had been taken to the House.

Mr. Speaker POOLEY: I think the amendment is in order. The rate on wild land, under the existing law, is five per cent. The motion of the Minister is to reduce an existing tax, viz., the said wild-land tax, to four per cent. The amendment is to diminish this reduction and not to impose a tax, and is therefore in order. (*See May*, 10th edition, page 533.)

Expenditure, etc. An amendment to a Bill, proposing to assess wild lands and involving expenditure of public money ruled out of order.

8th March, 1909. Journals, p. 113.

The Report on Bill (No. 42) intituled "An Act to amend the 'Bush Fire Act'" was considered.

Mr. Williams moved in amendment to add the following as section 4:—

"4. Any farmer or settler clearing land adjoining or contiguous to lands held as wild land under the 'Assessment Act' shall, upon satisfying the Government Agent for the district in which such lands are situated that his operations will be facilitated thereby, obtain an order from such Government Agent requiring the owner of such wild lands to clear a satisfactory fire-guard around, or partly around, such wild lands; and in case any owner refuses to comply with such order within a reasonable time, the Government Agent shall cause such guard to be made, and shall assess the costs of the said work against such wild lands."

The Hon. Mr. Fulton objected to the motion, and raised the point of order that the motion involved the expenditure of public money.

Mr. Speaker EBERTS sustained the objection, and stated that the motion was also out of order, on the ground that it proposed to assess wild lands.

The Chair was sustained on appeal.

TRADE AND COMMERCE.

Bills to regulate trade and commerce cannot be introduced as ordinary Bills.

Mr. Duck asked leave to introduce a Bill intituled "An Act to regulate Day Labour." 9th February, 1885. Journals, p. 30.

Mr. Speaker MARA stated that the Bill could not be introduced, inasmuch as it fell within subsection 2 of section 91 (the regulation of trade and commerce) of the "British North America Act."

NOTE.—See next decision—contra.

A Bill constituting eight hours a day's labour on public works held not to interfere with trade and commerce, and therefore in order.

The Order of the Day being called to resume the adjourned debate on the motion of Mr. Beaven (23rd January)—"That this House is of opinion that the principle of eight hours constituting a day's labour should be adopted in carrying on Provincial public works, and that a clause should be inserted in all contracts for such, to the effect that the hours making up a day's work of the workmen and labourers to be employed under it shall not be more than eight, and a penalty for the violation of such provision by the contractor or sub-contractor should be included,"— 26th January, 1891. Journals, p. 11.

Mr. Speaker HIGGINS ruled that the motion was in order, and gave the following decision:—

A point of order as to the Resolution was raised by me during the discussion that ensued. I based my objection on the action of Mr. Speaker Mara in 1885, in ruling out of order a Bill providing for the regulation of day labour. Mr. Speaker Mara ruled that the Bill was an interference with trade and commerce, a class of legislation that is reserved for the Dominion Legislature. Neither a copy of the Bill nor the ruling has been preserved; but I am informed that the Bill dealt with all classes of labour, whether employed by the Government or by private parties. Such being the case, it was clearly out of order.

My impression while listening to the debate on Friday was that the Resolution of the Hon. Member for Victoria City covered the same ground, in effect if not in words, as the Bill ruled out in 1885; and that it was, also, an interference with the prerogative of the Crown, inasmuch as the instruction conveyed in the Resolution, if accepted by the House, would increase the cost of government, and act prejudicially upon contractors for private as well as public works.

But upon reflection I think that the Resolution, if adopted, would not necessarily increase the financial burden of the country; because, while it proposes to reduce the hours of labour on public works to eight hours a day, it does not demand that the labourer shall be paid for more than the time he has actually been employed. For instance, a labourer on Government works is paid at the rate of twenty cents per hour for ten hours' work, there is nothing in the Resolution asking the Government to pay a higher rate per hour for eight hours' work. The number of labourers might be increased by the innovation, but the amount paid need not be greater than under the system now in force.

For the same reason private contractors would not be injuriously affected through the adoption of the eight-hours system on Government works, and the Resolution is not an interference with trade and commerce.

On these grounds, contrary to my first impression, I rule that the Resolution is within the powers of the House.

Bills relating to trade, etc., must originate in Committee of the Whole.

11th February, 1890. Journals, p. 20.

Objection having been taken that Bill (No. 7) intituled "An Act to amend the 'Licences Act'" had not been properly introduced, inasmuch as the Bill should have originated in Committee of the Whole and not in the House,—

Mr. Speaker HIGGINS decided as follows:—

I find that the Bill originated in the House, and not in Committee of the Whole.

In deciding this question I am not required to dip into *May*, *Bourinot*, or any other constitutional authority.

Our own Rules and Orders, bald and meagre though they be, provide for the emergency.

Rule 58 says: "No Bill relating to trade, or the alteration of the laws concerning Trade, is to be brought into the House until the proposition shall have been first considered in a Committee of the Whole House, and agreed unto by the House."

This Rule, in my opinion, is conclusive. The Bill not having originated in Committee of the Whole has not been properly introduced, and so I rule.

On the motion of the Hon. Mr. Davie, the Order for the House to again resolve itself into Committee of the Whole on the said Bill was discharged.

Bills affecting trade must originate in Committee of the Whole.

19th February, 1914. Journals, p. 55.

On the second reading of Bill (No. 13) intituled "An Act to amend the 'Master and Servant Act,'" Mr. Speaker EBERTS said he thought the Bill was irregularly before the House, and after considering the point gave the following ruling:—

When the Order for the second reading of the Bill was called I requested the Honourable Member from Newcastle to let the motion stand until I had an opportunity of looking into the effect of the provisions of the Bill, and whether the motion for second reading of a Bill of this nature was in keeping with the Rules of our House.

I am of the opinion that the Bill, in its present shape, is one of those measures which would affect trade, and therefore is in violation of Rule 58 of our Rules and Orders, and cannot be introduced until the provisions of the Bill shall have first been considered in a Committee of the Whole House and agreed to by the House.

Such procedure not having been followed, the Honourable Member for Newcastle cannot proceed further with the Bill.

The Chair was sustained on appeal.

Bill interfering with trade and commerce and creating a criminal offence ruled out.

Second reading of Bill (No. 67) intituled "An Act relating to Trading-stamps" called. 30th August, 1900. Journals, p. 192.

Mr. Speaker BOOTH: This Bill is out of order; it interferes with trade and commerce, and creates a criminal offence.

The provisions of Bills regulating industries are to be considered as in the nature of police regulations and not as affecting trade and commerce.

Order called for the House to again resolve itself into Committee of the Whole to consider Bill (No. 15) intituled "An Act for the Protection of Persons employed in Factories." 18th February, 1908. Journals, p. 56.

Mr. Speaker EBERTS gave the following ruling on a point of order raised yesterday in Committee of the Whole:—

In the Committee of the Whole on the above Bill a point of order was taken by the Honourable Member for Yale that the same had not been properly launched, in that, being a Bill dealing with trade, it should have been introduced by a resolution from the Committee of the Whole, and having been introduced by motion the procedure was in direct conflict with Rule 58, which is as follows:—

"No Bill relating to trade, or the alteration of the laws relating to trade, is to be brought into the House until the proposition shall have been first considered in a Committee of the Whole House and agreed unto by the House."

The Honourable Member for Skeena, the Chairman of the Committee, held that the Bill was properly before the House and Committee, and an appeal against his decision to the Speaker has been taken by the Honourable Member who took the point of order.

Trade in general terms means the act or business of exchanging commodities by barter, the business of buying and selling for money.

This Bill, as its title denotes, is an Act for the protection of persons employed in factories. I have perused the Bill carefully, and I fail to find any of its sections altering the laws concerning trade, as the word is used in its general acceptation. Certainly the persons who are to be protected under the Bill are indirectly connected with the trade carried on by the persons by whom they are employed, but their avocation in no way relates to trade, nor is their better protection any alteration of the laws concerning trade.

A similar rule to 58 of the Rules of this House is in force in the British and Dominion Houses, and the object of the rule is that Bills relating to trade should be founded on the resolution of a preliminary Committee, in order to give an opportunity for a fuller discussion and a wider notice to those interested.

A Bill for regulating the employment of children in factories has been introduced into the English House on motion only, and the Bill itself is in effect of the same nature as the one now under discussion.

The Bill is simply to protect the life and limb of a person employed in any of the factories designated in the Act, and may fairly be termed a police regulation.

I therefore hold that the Bill has been properly introduced by motion.

A Bill to regulate sale of poisons, etc., is not a Bill affecting trade and commerce under Rule 58.

16th February, 1911. Journals, p. 44.

Upon the Order being read for the resuming of the debate on the second reading of Bill (No. 19) intituled "An Act respecting Habit-forming Drugs," Mr. Deputy Speaker HAYWARD gave the following ruling on the point of order raised by Mr. Hawthornthwaite on the 9th inst., as follows:—

The objection that the Bill was out of order, on the ground that it affected trade and commerce, and was therefore beyond the jurisdiction of this House to legislate on the subject, I think is untenable, as the Bill proposes to deal with a matter of public concern and order, and as affecting the health and morals of the public. The question of jurisdiction of both Houses in matters of trade has often been in dispute between the Dominion and the Provinces, and the better view seems to be that the Provinces should not deprive themselves of their powers before they are challenged by a higher authority.

On the other objection, as to the effect of Rule 58—

Generally speaking, all Bills relating to trade must, in accordance with Rule 58, be initiated in Committee of the Whole; but some diversity of practice has arisen at different times, on account of a variance of opinion as to the proper application of this Rule, and it has been held that the Rule does not apply to Bills to regulate the sale of poisons. (*See Bourinot*, 3rd edition, page 637; Eng. Journals, Vol. 125, page 187.) I must therefore rule that the Bill is in order.

A Bill relating to notice of unpaid moneys held as security held not to be a Bill affecting trade within Rule 58.

3rd March, 1914. Journals, p. 124.

The Report on Bill (No. 34) intituled "An Act to provide for the Publication of Unpaid Moneys" was called for consideration.

Mr. Speaker EBERTS gave the following ruling on the objection of Mr. Williams, as follows:—

A point of order was taken by the Honourable Member for Newcastle that the provisions of this Bill refer to trade, and therefore should not (according to Rule 58 of the Rules and Regulations of this Assembly) be brought into the House "until the proposition shall have been first considered in a Committee of the Whole House, and agreed unto by the House."

I am of opinion that the words of the proposed Act would not in any way affect trade, nor does the Act create any alteration of the laws concerning trade.

I rule the proposed Act has been properly brought into the House.

A Bill for the better observance of Sunday held to be intra vires.

28th January, 1895. Journals, p. 95.

A motion for the second Reading of Bill (No. 63) intituled "An Act for the Better Observance of Sunday" has been objected to by the Hon. Member for Cassiar, who urges that the Bill is *ultra vires* of this Legislature.

The Hon. Member relies on section 91, subsection (10), and section 92, subsection (10), "British North America Act," and on Rule 58 of the Rules and Orders of this House.*

I do not think that the Bill impinges on the powers of the Dominion Parliament, in so far as those powers relate to the ordinary business of navigation and shipping, and to the ordinary traffic of railways, telegraphs, canals, etc.; nor does it appear to be intended to interfere with trade and commerce, as it is provided that only the carriage of excursionists shall be prohibited on the Lord's Day. Ordinary traffic is expressly allowed; and as for section 2 of the Bill, which prohibits Sunday trading, "except the selling of drugs and medicines and other works of necessity and charity," it does not appear to be an alteration of the laws of trade.

In this connection attention is drawn to the fact that similar laws have been enacted by the Legislatures of other Provinces, and have been allowed by the Dominion Government.

The powers of Provincial Legislatures are already too limited, and it is not desirable that a ruling should emanate from this House that would further curtail privileges to legislate which have been claimed by and conceded to the other Provinces.

Chap. 108, Consolidated Statutes, British Columbia, "An Act respecting the Observance of Sunday," is further evidence that this Province has successfully maintained, since Confederation, the right which it possessed before Confederation to enact a Sunday law.

* Rule 58. No Bill relating to Trade, or the alteration of the laws concerning Trade, is to be brought into the House until the proposition shall have been first considered in a Committee of the Whole House, and agreed unto by the House.

A Bill relating to dentistry is not a Bill relating to trade under Rule 58.

The Order for the House to again consider Bill (No. 12) intituled "An Act to amend the 'Dentistry Act'" in Committee was called. 3rd March, 1914. Journals, p. 124.

Mr. Speaker EBERTS gave the following ruling on the point of order raised by Mr. Williams, as follows:—

While this Bill was in Committee it was proposed to amend same by repealing section 28 of chapter 64 of the "Revised Statutes of British Columbia, 1911," being the "Dentistry Act," and substitute the following, namely:—

"2. Section 28 of the 'Dentistry Act,' being chapter 64 of the 'Revised Statutes of British Columbia, 1911,' is hereby repealed, and the following is substituted therefor:—

"'28. The Council shall, subject to the approval of the Lieutenant-Governor in Council, have power to make all regulations necessary for the conduct of the examinations of candidates applying for a licence under the provisions of section 22 of this Act, and to appoint such times and places therefor, as they may deem fit: Provided, however, that examinations shall be held at least twice in each year; and provided that any person shall be entitled to a special examination at any time in all or any subjects upon payment of an examination fee not exceeding the sum of two hundred and fifty dollars for the privilege of such special examination.'"

The Honourable Chairman of the Committee reported that the Honourable Member for Newcastle had raised the point of order, alleging that the amendment created an infraction of Rule 58 of the Rules and Orders of this Assembly, namely:—

"No Bill relating to Trade, or the alteration of the laws concerning Trade, is to be brought into the House until the proposition shall have been first considered in a Committee of the Whole House, and agreed unto by the House."

With every deference to the views of the Honourable Member who took the point of order, I fail to see where the words complained of in any way affect trade. The amendment, in my opinion, is in order.

URGENCY.

Rule regarding motions to adjourn the House to discuss matters of urgency.

Pursuant to Order, the House resumed the adjourned debate on the Address in reply to the Speech of His Honour the Lieutenant-Governor at the opening of the Session. 14th March, 1902. Journals, p. 17.

Mr. Speaker POOLEY gave the following ruling regarding proposed motions to adjourn the House to discuss matters of urgency, etc.:—

I beg to suggest the following Rule with regard to motions to adjourn the House for the purpose of discussing a definite matter of urgent public importance:—

Rule 17 of the English House of Commons should be adopted as hereinafter amended:—

(1.) That no motion for the adjournment of the House for the purpose of discussing a definite matter of urgent public importance shall be made until all the questions to Members on the notice paper have been disposed of, and no such motion shall be made before the orders of the day or the notices of motions have been entered upon, except by the unanimous leave of the House, unless a Member rising in his place shall propose to move the adjournment of the House for the purpose before mentioned, and not less than nine (9) Members shall thereupon rise in their places to support the motion.

(2.) A Member who desires to move such motion shall, before rising in his place, deliver to the Speaker a notice in writing of the definite matter of urgent public importance he proposes to discuss.

NOTE.—Rule 33 now deals with the above matters.

Motion without notice, public urgency must be shown.

Mr. Curtis moved the adjournment of the House to discuss the conduct of the Government in refusing to give the House its policy regarding proposed Provincial railways, while continually giving fragments of its policy to various deputations, and by an advertisement in the public press, and also to discuss the railway policy as thus disclosed and in general. 28th March, 1901. Journals, p. 52.

Mr. Speaker BOOTH: No previous notice of this motion has been given me, and I do not think the motion is of sufficient urgent public importance to justify me in submitting the same to the House. (*May*, page 240.)

Mr. Curtis appealed from the ruling of the Chair.

The Chair was sustained on appeal.

Disorder in debate. Motions without notice on the ground of urgency must disclose a matter of urgency. Practice when words taken down and offender refuses to apologize.

25th February, 1908. Journals, p. 69.

Mr. Hawthornthwaite moved the adjournment of the House for the purpose of considering a matter of urgent importance.

Mr. Speaker EBERTS ruled that the motion submitted to him did not disclose a matter of urgency sufficient to justify him in allowing the motion to be moved without the usual two days' notice.

The House appearing to desire that the matter should proceed, Mr. Speaker EBERTS put the question:—

"Is it the desire of the House that I should read the proposed resolution?" and *Resolved* in the affirmative.

Moved by Mr. Hawthornthwaite, seconded by Mr. McInnis,—

That this House views with regret and alarm the tone of the judgments given by certain of the Justices of the Supreme Court of British Columbia in the cases tried before them under the "Natal Act, 1908," and further emphatically protests against the growing practice of certain of the Judiciary using their positions and influence on the bench to foster the fortunes of any political party.

A debate ensued.

Mr. Macdonald objected to certain words used by Mr. Hawthornthwaite as being unparliamentary and disorderly, and requested that the said words be taken down.

The Clerk took down the words objected to, as follows: "The statement made by the Leader of the Opposition (Mr. Macdonald) is a deliberate untruth."

Mr. Speaker EBERTS: I think the words are unparliamentary, and that the Hon. Member using them should withdraw them, and apologize to the House.

Mr. Hawthornthwaite refused to withdraw the words or apologize.

Mr. Speaker: Unless some Hon. Member is prepared to make a motion, I must call upon Mr. Macdonald to resume the debate.

Debate resumed.

Motion withdrawn with leave.

6th March, 1902. Journals, p. 11.

Mr. McBride moved, seconded by Mr. Green,—

That the House adjourn for the purpose of discussing the advisability of the production of all telegrams or other communications between the Government, or any member thereof, and any person or persons, relating to any alterations in the draft agreement, laid on the table yesterday, with the Canada Northern Railway Company.

Mr. Speaker POOLEY: I must rule the motion out of order. No definite matter of urgent public importance is disclosed in the motion upon which a discussion can proceed. (*See* decisions, Journals, 1901, pages 52 and 82; *May*, 240, 826.)

The motion must disclose a definite matter of urgency.

24th April, 1901. Journals, p. 82.

Mr. Curtis moved, seconded by Mr. E. C. Smith,—

That the House do now adjourn to discuss certain phases of the railway question.

Mr. Speaker BOOTH: I must rule the motion out of order. No definite matter of urgent public importance is disclosed in the motion upon which a discussion can proceed. (*See* English Rule, *May*, 826.)

Mr. Hawthornthwaite moved the adjournment of the House for the purpose of discussing a definite matter of urgent public importance. 16th January, 1908. Journals, p. 3.

Mr. Speaker EBERTS, after considering the proposed motion, ruled that the same did not disclose a matter of sufficient definite urgent public importance to justify him in allowing the debate to proceed on the opening day of the Session.

Mr. Hawthornthwaite appealed from the ruling of the Chair.

The Chair was sustained on appeal.

Adjournment of House to discuss matter of urgent public importance. If no urgency apparent the motion will not be put.

Mr. McBride asked the Government the following questions:— 19th May, 1902. Journals, p. 116.

1. Is J. N. Greenshields, K.C., still in the service of the Government?

2. If so, under what terms?

The Hon. Mr. Wells replied as follows:—

"I will answer the questions later on in the afternoon."

Mr. McBride moved, seconded by Mr. Murphy,—

That this House do now adjourn. This motion is made for the purpose of discussing a matter of urgent public importance, viz.: The action of the Government in withholding from the House information regarding Mr. J. N. Greenshields, K.C.

Mr. Speaker POOLEY: I do not think there is any colour of urgency in the proposal, in the face of the statement by the Minister that the questions would be answered later on in the afternoon. I must therefore decline to put the motion. (*See May*, 10th edition, page 241.)

The adjournment of the House to discuss matter of urgency can only be moved after disposal of questions to Members.

Mr. McBride proposed to move the adjournment of the House for the purpose of discussing a matter of urgency relating to the bringing-down of all papers relating to the Canadian Northern Railway contract. 13th March, 1902. Journals, p. 16.

Mr. Speaker POOLEY: I must rule the motion out of order at this stage. Such motions can only be made when all the questions to Members upon the notice paper have been disposed of, and before the commencement of public business. (*See May*, 10th edition, 240.)

VOTES AND PROCEEDINGS.

The Votes and Proceedings record the result of the proceedings of the House, and not all the details showing how those results were arrived at.

21st February, 1888. Journals, p. 30.

The Hon. T. Davie raised a point of order with reference to the entry on yesterday's Votes and Proceedings, claiming that the names of those Members who were proposed by him to sit on the Committee for inquiry into the charges against the President of the Council, and who refused or declined to act, should appear on the Votes and Proceedings as having been so proposed and that they so refused to act.

Mr. Speaker POOLEY stated that only the results of the proceedings of the House were entered on the Journals, and not the proceedings by which those results were arrived at, and decided that the Votes and Proceedings were correctly recorded.

The Chair was sustained on appeal.

Objections to, should be taken at once.

24th April, 1902. Journals, p. 81.

Mr. McBride, on a question of privilege, objected to the record in the Votes and Proceedings of yesterday, as follows:—

"And then the House adjourned at 5.59 o'clock p.m.," on the ground that the motion was rejected, the vote being 16 for adjournment and 17 against.

Mr. Speaker POOLEY: I think the objection should have been taken last night at the time the vote objected to was taken. I do not think the matter can be raised at this time. It is not a question of privilege.

Mr. McBride appealed from the ruling of the Chair.

Chair not sustained.

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